IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. ST/70796/2018-ST[SM]

(Arising out of Order-in-Appeal No.128/ST/Appeal/Audit LKO/2018 dated 20/03/2018 passed by Commissioner (Audit) Central Goods & Services Tax and Central Excise, Lucknow)

M/s M Imran & Corporation **Appellant**

Vs.

Commissioner (Appeals) of Central Excise

& Service Tax, Lucknow **Respondent**

<u>Appearance:</u>

Shri Tushar Garg (Adv.) & Shri Abhinav Mehrotra (Adv.) for Appellants
Shri Sandeep Kumar Singh (Dy. Commr.) AR for Respondent

<u>CORAM:</u>

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Date of Hearing : 13/09/2018
Date of Decision : 13/09/2018

FINAL ORDER NO. - **72222/2018**

Per: Archana Wadhwa

After hearing both the sides, I find that during the period in question i.e. Financial Year 2011-12 to 2014-15 the appellant was engaged in providing "Works Contract Services". Based upon the scrutiny of Form 26AS filed by the appellant before the Income Tax Authorities, demands were raised against them alleging that the appellants have provided said services and have not paid service tax.

2. During the course of adjudication, the appellant admitted their tax liability for the period in question except for the Financial Year 2011-12. They contended that during the said Financial Year, they were also engaged in purchase and selling of the goods which activity cannot be held to be taxable. They also produced the evidence to substantiate their argument that there was sale and purchase at their end.

3. It is seen that both the Authorities below dealt with the issue in a flimsy manner and by simply observing that no documentary evidence stand produced, rejected the same.

4. Learned advocate has shown me evidences indicating that the said documentary evidences were produced before the Authorities below. In which case, it was the duty of the Original Adjudicating Authority to examine the same and after verification to pass the reasonable order. Inasmuch as the same has not been done, the impugned order, in so far the same relates to Financial Year 2011-12 is set aside and matter remanded

for verification of the appellant's above stand. It is made clear that order in respect of the other period is being upheld as not contested.

(Dictated & Pronounced in Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Lks