

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I
APPEAL No. ST/70697/2016-CU[DB]**

(Arising out of Order-in-Appeal No. 95-ST/APPL-LKO/LKO/2016 dated 09/02/2016 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Lucknow)

Krishi Utpadan Mandi Samiti

... Appellant

Vs.

Commissioner (Appeals), Central Excise & Service Tax, Lucknow

...Respondent

Appearance:

Absent On Call

Shri Sandeep Kumar Singh, Deputy Commissioner, AR

for Appellant

for Respondent

CORAM:

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

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing/ Decision : 28/11/2018

FINAL ORDER NO. **72735/2018**

Per: Archana Wadhwa

On matter being called neither anybody appeared nor is there any adjournment request. We have heard learned AR Shri Sandeep Kumar Singh and have gone through the impugned order and we proceed to decide the appeal itself, inasmuch as the issue stands decided by the earlier decisions of the Tribunal in the same assessee's case.

2. Service Tax stands confirmed against the assessee under the category of 'renting of immovable property. The appellants have sought relief on the ground of invocation of

extended period, cum duty benefit and in respect of penalty. We note that earlier the Tribunal has accepted the above stands of the appellant and have remanded the matters for re-calculation of duty falling within the normal period of limitation as also by the extending the benefit of cum duty and by setting aside the penalty one such can be made to Tribunal's Final Order No. 70095/2017 dated 04.01.2017.

3. By following the earlier decision we set aside the impugned order and remand the matter for fresh decision in the light of the observation made as above.

(Dictated and pronounced in Court)

Sd/-
Anil G. Shakkarwar)
Member (Technical)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Ankit