

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL  
REGIONAL BENCH : ALLAHABAD  
COURT No. I**

**APPEAL Nos.ST/70257, 70258/2016-CU[DB]**

(Arising out of Order-in-Appeal No.236-237-ST/APPL/ALLD/2015 dated 15/12/2015 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Allahabad)

**M/s Krishi Utpadan Mandi Samiti** **...Appellants**  
Vs.

**Commissioner, Central Excise & Service Tax, Allahabad...Respondent**

Appearance:

Shri Dharmendra Srivastava, (C.A.) for Appellant  
Shri Mohd. Altaf, Assistant Commissioner (AR), for Respondent

**CORAM:**

**Hon'ble Mrs. Archana Wadhwa, Member (Judicial)**  
**Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)**

Date of Hearing/ Decision : 07/12/2018

FINAL ORDER NOS.**72798-72799 / 2018**

**Per: Archana Wadhwa**

After hearing both the sides duly represented by Shri Dharmendra Srivastava, learned Chartered Accountant appearing for the appellants and Shri Mohammad Altaf appearing for the Revenue, we note that Service Tax stands confirmed against the assessee under the category of 'Renting of Immovable Property'. Ld. Chartered Accountant appearing on behalf of the appellant is not disputing the fact that they were required to discharge Service Tax liability, but seeks relief

on the ground of invocation of extended period, cum-duty benefit and in respect of penalty.

We note that earlier the Tribunal, in the same assessee's case, 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 extending the benefit of cum-duty and by setting aside the penalty. One such reference can be made to Tribunal's Final Order No.70095/2017 dated 04.01.2017.

2. By following the earlier decisions, we set aside the impugned orders and remand the appeals to original adjudicating authority for fresh decision in the light of the observations made as above.

(Pronounced & Dictated in Court)

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

Sd/-  
**(Archana Wadhwa)**  
**Member (Judicial)**

*Nihal*