

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

**APPEAL No.ST/53501/2014-CU[DB]**

(Arising out of Order-in-Appeal No. GZB-EXCUS-000-APP-258-13-14 dated 24/03/2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Ghaziabad)

**M/s Kalco Alu-Systems Pvt. Ltd.,**

**Appellant**

Vs.

**Commissioner of Central Excise, Ghaziabad**

**Respondent**

Appearance:

On merits,  
Shri Mohammad Altaf, Assistant Commissioner (AR),

for Appellant  
for Respondent

**CORAM:**

**Hon'ble Smt. Archana Wadhwa, Member (Judicial)**

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

Date of Hearing : 15/11/2018  
Date of Pronouncement : /12/2018

**FINAL ORDER NO-72889 / 2018**

**Per: Anil G. Shakkarwar**

The present appeal is filed by revenue against Order-in-Appeal No. GZB-EXCUS-000-APP-258-13-14 dated 24/03/2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Ghaziabad.

2. When the matter was called nobody appeared on behalf of the appellant. However, the Court Master has brought to our notice that the appellant has submitted a letter dated

24.07.2018, requesting to decide the appeal on the basis of available records. Accordingly, we have heard the learned A.R. Shri Mohammad Altaf and perused the records. We note that the service tax demand of around Rs.99 Thousand stands confirmed against the appellant for the period from 2008-09 to 2009-10. The appellant has submitted in the grounds of appeal that as certified by Chartered Accountant through certificate dated 26.02.2013 during the financial year 2008-09 appellant received total consideration of Rs.8,04,941/- and therefore, they were eligible for the Small Scale Exemption for the financial year 2008-09 and therefore, for the year 2009-10 appellant was eligible for exemption in respect of first service up to Rs.10 lakhs. We find that before the Original Adjudicating Authority appellant had contended that show cause notice was issued on the basis of billed amount and not on the amount actually realized by the appellant from the recipient of service. However, we note that the authorities below did not have advantage of examining the issue by taking into consideration the certificate dated 26.03.2013 issued by the Chartered Accountant.

3. We, therefore, remand the matter to Original Adjudicating Authority with direction to take into consideration the said certificate issued by Chartered Accountant and take into consideration the actual receipt by the appellant and not billed amount for the financial year

2008-09 and 2009-10 and decide the matter afresh after giving opportunity being heard to the appellant.

4. In above terms, by setting aside the impugned order, matter is remanded to Original Adjudicating Authority.

(Pronounced in Court on- /12/2018)

**(Anil G. Shakkwar)**  
**Member (Technical)**

**(Archana Wadhwa)**  
**Member (Judicial)**

*akp*