

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

APPEAL No.ST/70698/2016-CU[DB]

(Arising out of Order-in-Appeal No. GZB-EXCUS-000-APP-0386-15-16 dated 28/03/2016 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Noida)

M/s K.R. Engineering Works,

Appellant

Vs.

Commissioner of Central Excise & S.T., Ghaziabad

Respondent

Appearance:

Shri Rakhsit Verma, Advocate

for Appellant

Shri Shiv Pratap Singh, Deputy Commissioner (AR),

for Respondent

CORAM:

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

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

Date of Hearing : 27/11/2018
Date of Pronouncement : 12/12/2018

FINAL ORDER NO-72892 / 2018

Per: Anil G. Shakkarwar

After hearing both the sides duly represented by learned Advocate Shri Rakshit Verma appearing on behalf of appellant & learned A.R. Shri Shiv Pratap Singh, Deputy Commissioner appearing on behalf of revenue we note that the appellants were issued with a show cause notice dated 14.10.2014 wherein there was an allegation that appellant had short paid service tax to the tune of Rs.3.37 lakhs for the period from April 2009 to March 2010. The said show cause notice alleged that on the basis of information available in the

balance sheet and profit and loss account, the actual receipt of the appellant was more whereas the value on which service tax was paid as reflected in ST-3 return was less. We note that for raising the demand extended period of limitation was invoked and show cause notice was issue on 14.10.2014 for the period from April 2009 to March 2010. We note that since the figures were adopted from balance sheet and profit and loss account suppression cannot be alleged. Therefore, the show cause notice is not sustainable since the same is for the extended period.

2. We therefore, set aside the impugned order and allow the appeal.

(Pronounced in Court on- /12/2018)

(Anil G. Shakkwarwar)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

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