

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD**

ST/70076/2018-ST[SM]

(Arising out of Order-in-Appeal No.245-ST/APPL-LKO/LKO/2017 dated 25.09.2017 passed by Commissioner(Appeals), CGST, Central Excise & Customs, Lucknow.)

M/s. Kamini Singh & Akhilesh Kumar Goel

...APPELLANT(S)

VERSUS

Commissioner of Central Excise & Service Tax, Lucknow

RESPONDENT (S)

APPEARANCE

Shri Gaurav Goyal (C.A.) for the Appellant (s)

Shri Gyanendra Kumar Tripathi (A.C.) (A.R.) for the Revenue

CORAM:

SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION : 19.12.2018

FINAL ORDER NO.72908/2018

Per ANIL G. SHAKKARWAR :

After hearing both sides duly represented by Shri Gaurav Goyal, learned C.A. on behalf of the appellant and Shri Gyanendra Kumar Tripathi, learned Asstt.Commissioner(A.R.) on behalf of the Revenue, I note that the appellant was providing vehicles to M/s.UPSRDC for the period from 2008-09 to 2012-13. The said activity was treated by

Revenue as a 'rent a cab operator service'. Proceedings were initiated. The same culminated into filing of present appeal. The learned C.A. has submitted that after allowing abatement of 60% upto 30.06.2012 Revenue did not allow them small scale exemption and confirmed the demand to the extent of around Rs.4.00 Lakhs. He has submitted that the issue is no more *res integra* and the same is covered for the period upto 30.06.2012 by decision of this Tribunal in the case of Alok Pratap Singh & Others v. Commissioner of Central Excise, Allahabad decided through Final Order No.72407-72411/2018 dated 05.10.2018. The learned Representative of Revenue has fairly agreed that the issue upto to 30.06.2012 was covered by the said Final Order of this Tribunal. For the period subsequent to 01.07.2012, the learned C.A. has submitted that the activity was exempted through Notification No.25/2012 at Sl.No.22A. The information in respect of turn over for the year 2012-13 for the whole year is available on record, but the value of service for the period from 01.04.2012 to 30.06.2012 is not available on record. I therefore remand the matter to original authority with a direction to follow the Final Order of this Tribunal as stated above for the period upto 30.06.2012 and take into consideration exemption allowed through Notification No.25/2012-ST for the period subsequent to 01.07.2012 and decide the matter afresh. The appellant shall be submitting a copy of said Final Order to the original authority and split up of all the figures for the financial year 2012-13. The original authority shall decide the matter within a period of 3(three) months from today. In above terms, by setting aside the impugned order, the

matter is remanded to original authority. Thus, appeal is allowed by way of remand.

(Dictated and pronounced in the open Court.)

SD/
(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

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