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

ST/70741/2018-ST[SM]

(Arising out of Order-in-Appeal No.NOI-EXCUS-001-APP-1678-17-18 dated 16.02.2018 passed by Commissioner(Appeals), Central Goods & Service Tax, Noida.)

M/s. Vastunidhi

…APPELLANT(S)

VERSUS

Commissioner of Customs, Central Excise & Service Tax, Noida

RESPONDENT (S)

APPEARANCE

Shri Atul Gupta (Advocate) & Shri Utkarsh Malviya (Advocate) for the Appellant (s)
Shri Sandeep Kumar Singh (Dy.Commr.) (A.R.) for the Revenue

CORAM:

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

DATE OF HEARING/DATE OF DECISION : 14.01.2019

FINAL ORDER NO.70055/2019

Per ANIL G. SHAKKARWAR :

After hearing both sides duly represented by Shri Atul Gupta (ld.Advocate) & Shri Utkarsh Malviya (ld.Advocate) for the appellants and Shri Sandeep Kumar Singh (ld.Dy.Commr.) (A.R.) for the Revenue, I note that the appellant were a proprietor-ship firm engaged in the business of acchitecture, civil engineering, air-conditioning etc.. The appellant received input services from their various service providers. In respect of some of the service providers located in Kolkata, the jurisdictional Central Excise officers caused verification of the service providers and it was reported by Assistant Commissioner, Kolkata that the service providers did not exist at their given addresses. Therefore it appeared to Revenue that the service providers did not exist. However, the learned Counsel has submitted that for the services received appellant paid the requisite amount chargeable along with Service Tax to the service provider through banking channels and the same was not in question. The learned Counsel further submitted that the invoices were complete in all respects showing the registration number, PAN number and e-mail address. He has further submitted that from the website "Electronic Accounting System in Excise and Service Tax" that the service provider as on 14.01.2009 is existing. He has further relied on ruling by Hon'ble High Court of Allahabad in the case of Commissioner of Central Excise, Customs & Service Tax v. Juhi Alloys Ltd. reported at 2014 (302) ELT 487 (All.).

2. I note that learned A.R. has supported the impugned order. I note that Hon'ble Allahabad High Court in the said case had ruled that it would be impracticable to require the assessee to go beyond the records maintained by the first dealer and that assessee in that case was found to have duly acted with all reasonable diligence in its dealing with first stage dealer. I note that Hon'ble Allahabad High Court has ruled that the responsibility of assessee is to act diligently. I find that in the present case appellant has acted diligently since the invoices on the basis of which appellant has taken Cenvat credit were having all the particulars required for availment of Cenvat credit. I therefore set aside the impugned order and allow the appeal. Appellant shall be entitled for consequential relief, as per law.

(Dictated and pronounced in the open Court.)

SD/

(ANIL G. SHAKKARWAR)

MEMBER(TECHNICAL)

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