# IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

## REGIONAL BENCH : ALLAHABAD

## COURT No. I

**APPEAL No.ST/70190/2016-CU[DB]**

(Arising out of Order-in-Appeal No.193/ST/ALLD/2015 dated 28/10/2015 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Allahabad)

**M/s Super Painting Decotator** **…Appellant**

Vs.

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

**…Respondent**

Appearance:

Shri O.P. Shukla (Adv.) for Appellant
Shri Shiv Pratap Singh, Deputy Commissioner (AR), for Respondent

**CORAM:**

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

Date of Hearing/ Decision : 16/01/2019

FINAL ORDER NO.**70096 / 2019**

**Per: Anil G. Shakkarwar,**

After hearing both the sides duly represented by learned advocate Shri O.P. Shukla on behalf of the appellant and learned A.R. Shri Shiv Pratap Singh on behalf of the Revenue, we note that the appellant were registered for payment of service tax and they have also filed ST-3 Return during the period of present proceedings. On the basis of information received from M/s Obra Thermal Power Station, a demand of service tax of Rs.6.6 lakhs was raised against the appellant. When the matter reached the learned Commissioner

(Appeals), Learned Commissioner (Appeals) has allowed the benefit of Exemption Notification No.12/2003-ST dated 20.06.2003. The contention of learned counsel for appellant is that the appellant utilized material of around Rs.56 lakhs value for providing services of ‘Repair and Maintenance’, where as learned Commissioner has allowed exemption for use of material to the extent of Rs.44 lakhs value. The learned counsel submits that he has got challans to establish that VAT was paid in respect of material of value of around Rs.56 lakhs. We, therefore, set aside the impugned order and remand the matter to learned Commissioner (Appeals) who shall look into the total value of material used for providing said services on the basis of returns of VAT and VAT payment challans and re-determine differential duty payable by the appellant if any.

2. The learned Commissioner during remand proceedings may look into all the other aspects that appellant may raise before him.

(Pronounced & Dictated in Court)

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

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

*Nihal*