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

APPEAL No. ST/53100/2015-CU[DB]

(Arising out of Order-in-Original No.(ST-63/2014)14 of 2015 dated 07/05/2015 passed by Commissioner of Central Excise & Service Tax, Allahabad)

M/s Sun Chemicals

Proprietor Suresh Kumar Mathur **Appellant**

Vs.

Commissioner of Service Tax, Allahabad **Respondent**

Appearance:

Request for Adjournment/Written Submission for Appellant
Shri Shiv Pratap Singh (Dy. Commr.) AR for Respondent

CORAM:

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

Date of Hearing : 28/01/2019
Date of Decision : 28/01/2019

FINAL ORDER NO. - **70154/2019**

Per: Archana Wadhwa

On matter being called, our attention has been drawn to the advocate's letter seeking adjournment. On the other hand the appellant has also addressed a letter requesting for decision on merits in the light of earlier order of the Tribunal wherein identical issue stands already decided in their favour. Accordingly, we have gone through the impugned order, have heard the learned D.R. appearing for the Revenue and have gone through the earlier order of the Tribunal in the case of M/s Surya Chemicals vs. Commissioner, Allahabad Final Order No.72786/2018 dated 07/12/2018.

2. The short issue required to be decided is as to whether the appellants who are selling Explosive to various persons and are also supervising the use of the same in the mines can be said have provided services falling under the category of 'Mining of Mineral Oil & Gas Services'. The Lower Authorities have held so and have accordingly confirmed the demand alongwith confirmation of interest and imposition of penalties etc.

3. In the above referred decisions in the case of Surya Chemicals Tribunal had followed its earlier order in the case of M/s Explo Tech Services vs. Commissioner of Central Excise and Service Tax, Raipur 2017-TIOL-3094-CESTAT-Delhi wherein it was held that mere supply and supervision of the use of Explosive would not amount to providing services falling under the category of 'Mining of Mineral Oil & Gas Services'. As in the earlier matter the impugned orders were set aside and matters were remanded, we, by following the same, set aside the

impugned order and remand the matter to Original Adjudicating Authority for fresh decision in the light of the precedent orders. We make it clear all other issues are kept open and the appellant is at liberty to contest the same before the Original Adjudicating Authority.

4. Appeal is thus allowed by way of remand.

(Dictated & Pronounced in Court)

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

Lks