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

APPEAL No.ST/70643/2017-CU[DB]

(Arising out of Order-in-Appeal No. 132/ST/APPL/KNP/2017 dated 29/05/2017 passed by Commissioner of Central Excise & Customs (Appeals), Kanpur)

Commissioner of Central Excise & S.T., Kanpur **Appellant**

Vs.

M/s Light House **Respondent**

Appearance:

Shri Mohammad Altaf, Assistant Commissioner (AR) for Appellant
Absent, for Respondent

CORAM:

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

Date of Hearing : 21/02/2019
Date of Pronouncement : 08/03/2019

FINAL ORDER NO-**70497 / 2019**

Per: Archana Wadhwa

Being aggrieved with the order passed by Commissioner (Appeals) vide which he has allowed the respondent's appeal, Revenue is in appeal before us. We have heard Shri Mohammad Altaf learned A.R. appearing for revenue. Nobody appeared for respondent.

2. As per facts on record the respondents are registered with the Service Tax Department under "Management,

Maintenance and Repair and Erection, Commissioning and Installation Services". As a result of investigation, proceedings were initiated against them, based upon the figures of Form 26AS read with their balance sheet, for the year 2009-10 to 2013-14 by way of issuance of a show cause notice dated 19.10.2015. The notice proposed confirmation of service tax to the extent of Rs.29,55,316/- along with confirmation of interest and imposition of penalties. The same culminated into an order passed by Original Adjudicating Authority, who confirmed the demands along with interest and imposed penalties of identical amount.

3. On appeal Commissioner (Appeals) accepted the assessee's stand that the services, during the relevant period, were provided to various government authorities under their work order and as such the same were exempted for payment of service tax in terms of Entry No.12 of the Mega Exemption Notification No.25/2012-ST dated 20.06.2012. The Commissioner (Appeals) accepted the above stand of the assessee by observing as under:-

> "The appellant has however, claimed exemption from service tax under entry 12 of the Mega Exemption Notification No.25/2012-ST dated 20.06.2012. Adjudicating authority has contended that the works executed by the appellant are not exempted under Exemption Notification No.25/2012 as they are provided by the party to the Govt./local authority relating to electrification work which are not covered under serial no.12 and only service relating to construction,

erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original work specified under Rule 2A of the Service Tax (Determination of value) Rules, 2006 are exempted from payment of service tax'. Whereas I find that the adjudicating authority has itself recorded in the order that appellant has carried out maintenance and repair works which does not only include electrification hence, I find there is no reason for denying exemption to the appellant as they are undoubtedly repair and maintenance of civil structures meant predominantly for use other than for commerce, industry, or any other business or profession hence, covered under the scope of entry 12 (a) of Mega Exemption Notification No.25/2012-ST dated 20.06.2012."

4. On going through the above findings of the Adjudicating Authority, we do not find any infirmity in the same. Revenue has not advanced any justifiable ground so as to establish the said order to be perverse.

5. Accordingly, we find no reason to interfere in the impugned order and reject the revenue's appeal.

(Pronounced in Court on- 08/03/2019)

(Anil G. Shakkarwar)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

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