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

ST/70371/2018-CU[DB]

(Arising out of Order-in-Appeal No.NOIDA-EXCUS-001-AP-1535-17-18 dated 29.12.2017 passed by Commissioner, Central Excise (Appeals) , Noida.)

M/s. Ahluwalia Contracts India Ltd.

…APPELLANT(S)

VERSUS

Commissioner of Customs, Central Excise & Service Tax, Noida

RESPONDENT (S)

APPEARANCE

Shri S.K.Sarwal (Advocate) for the Appellant (s)
Shri Rajeev Ranjan (Addl.Commr.) (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE MEMBER(JUDICIAL)
SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION : 07.03.2019

FINAL ORDER NO.70512/2019

Per ANIL G. SHAKKARWAR :

After hearing both sides duly represented by Shri S.K.Sarwal, learned Advocate for the appellant and Shri Rajeev Ranjan, learned Addl.Commr. (A.R.) for the Revenue, we note that the present appellant's appeal before learned Commissioner(Appeals) was rejected by learned Commissioner(Appeals) by observing in para 4 of impugned order that the appellant failed to produce any material evidence to substantiate their claim of original work for payment of Service Tax on 40% of the value. Therefore the contentions put-forth by the appellant are not sustainable. Here we note that proceedings were initiated against the appellant stating that appellant were availing 60% abatement to arrive at assessable value from the consideration received whereas it appeared to Revenue that appellant were providing "completion and finishing services" which were entitled for only 40% of abatement. Therefore Revenue initiated proceedings for recovery of differential Service Tax. The original authority confirmed the demand of around Rs.15.00 Lakhs and imposed equal penalty. The matter was agitated by the appellant before learned Commissioner(Appeals), who has made observation that the appellant failed to produce any material evidence to substantiate their claim that the work undertaken by them was original work and they did not provide "completion and finishing services". We therefore set aside the impugned order and remand the matter to learned Commissioner(Appeals), who shall give opportunity to the appellant to produce such evidences on the basis of which appellant will be attempting to prove their case. The appellant are directed to produce evidence before the learned Commissioner(Appeals). With above direction, appeal is allowed by way of remand.

(Dictated and pronounced in the open Court.)

SD/ SD/

(ANIL G. SHAKKARWAR) **(ARCHANA WADHWA)**
MEMBER(TECHNICAL) **MEMBER (JUDICIAL)**

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