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

APPEAL No. ST/71046/2018-ST[SM]

(Arising out of Order-in-Appeal No. NOI-EXCUS-001-APP-1958-17-18 dated 27/03/2018 passed by Commissioner (Appeals), Customs & Central Tax, Noida)

M/s IT Infrastructure Providers LLP **Appellant**

Vs.

Commissioner of Central Excise

& Service Tax, Noida-I **Respondent**

Appearance:

Shri Amit Mahajan (Adv.), Shri Ashish Bansal (Adv.) &
Shri Praveen Kumar Bansal (Adv.) for Appellant
Shri Shiv Pratap Singh (Dy. Commr.) AR for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Date of Hearing : 14/03/2019
Date of Decision : 14/03/2019

FINAL ORDER NO. - **70538/2019**

Per: Archana Wadhwa

Very short issue is involved in the present appeal. The appellant is owner of building and has two tenants in the same building. He has given a contract to the generator owner for generation of electricity in the premises, which is being supplied to the tenants also. The appellant is recovering charges for the said electricity from the tenants and is reimbursing the same to the generator owner. Similarly in respect of electricity received from State Electricity Board and utilized by the tenants is being charged by the appellant and such charges are being reimbursed to the Electricity Board.

2. The question is as to whether the said activity of the appellant falls under the category of "Renting of Immovable Property" and the value of the same is required to be taken into consideration or the same is sale of electricity, thus not requiring any payment of service tax.

3. The issue stands decided by the Tribunal in the case of ICC Reality (India) Pvt. Ltd. vs. Commissioner of Central Excise, Pune-III 2013 (32) S.T.R. 427 (Tri.-Mum.) wherein it stands held that the said activity is sale of electricity not covered by the service this requiring payment of service tax. Further in the case of M/s Purvanchal Vidyut Vitran Nigam Ltd. vide Final Order No.70050/2019 dated 11/01/2019 the said activity was again held sale of electricity activity.

4. In view of the above, I set aside the impugned order and allow the appeal with consequential relief to the appellant.

(Dictated & Pronounced in Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Lks