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

APPEAL No.ST/70801/2018-CU[DB]

(Arising out of Order-in-Appeal No. 138/ST/Appeal/Audit/LKO/2018 dated 22/03/2018 passed by Commissioner of Central Excise & Customs (Audit), Lucknow)

M/s R.K. Associated Electrical & Engineering Works, **Appellant**

Vs.

Commissioner of Central Excise & S.T., Lucknow **Respondent**

Appearance:

Shri Dharmendra Srivastava, Chartered Accountant for Appellant
Shri Gyanendra Kr. Tripathi, Deputy Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing : 08/03/2019
Date of Decision : 08/03/2019

FINAL ORDER NO-**70624 / 2019**

Per: Archana Wadhwa

After hearing both the sides, we note that the demand of service tax to the extent of Rs.20,62,430/- stands confirmed against the appellant along with confirmation of interest and penalties under the category of 'Management, Maintenance and Repair Services', which were being provided by them to M/s BSNL and M/s HAL.

2. Learned Advocate submits that during the relevant period they were under a bonafide belief that the services provided to PSU are not taxable and as such was not paying

any service tax on the same. However, he fairly agrees that the said services were taxable but submits that the same would fall under the category of works contract and as such abatement of 60% is required to be extended to them. He accordingly, prays that matter may be remanded with the directions to re-quantify the demand by extending the benefit of abatement.

3. Learned A.R. appearing for the revenue has not opposed the idea of remand.

4. In view of the above, we set aside the impugned order and remand the matter to the Original Adjudicating Authority for re-quantification of the demand in accordance with law declared by the Hon'ble Supreme Court in the case of Commissioner of Central Excise, Kerala Vs Larsen & Toubro Ltd. reported as 2015-TIOL-187-SC-ST. The issue of imposition of penalty are left open for fresh adjudication by the Original Adjudicating Authority.

5. Appeal is thus allowed by way of remand.

(Dictated in Court)

(Anil G. Shakkarwar)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

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