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

APPEAL No.ST/71140/2016-ST[DB]

(Arising out of Order-in-Original No.AGA-EXCUS-000-COM-0019-16-17 dated 07/09/2016 passed by Commissioner, Customs, Central Excise & Service Tax, Agra)

M/s Maharaj Singh **Appellant**

Vs.

Commissioner, Central Excise & Service Tax, Agra **Respondent**

Appearance:
Shri Poojan Malhotra (Adv.) for Appellant
Shri Sandeep Kumar Singh, Deputy Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing/ Decision : 07/03/2019

FINAL ORDER NO.**70646/2019**

Per: Archana Wadhwa

After hearing both the sides, we find that the appellant was engaged in providing taxable services under the category of 'Manpower Recruitment and Supply Agent Services'. They were duly registered with the service tax department and were filing ST-3 Returns and were paying service tax.

2. On investigation made by the Revenue it was found that in their income tax return in the form of 26AS they

have shown much more income than the one reflected in ST-3 Returns. Revenue entertained a view that such excess income has accrued to the appellant on account of providing manpower services and has escaped payment of service tax. Accordingly, proceedings were initiated against them which stands culminated into the impugned passed by the Commissioner confirming the demand to the extent of around Rs.86 lakhs along with confirmation of interest and imposition of penalty.

3. Learned advocate appearing for the appellant submits that the Revenue has eared in assuming that the differential income is on account of the services provided by them under the category of manpower supply. He clarifies that the appellant was undertaking some jobs on their own for which purpose they have placed on record the invoices etc. He fairly agrees that no reply was filed by them and as such there was no occasion to the Adjudicating Authority to examine the documentary evidences placed on record in support of their plea that they have earned the said income from other activities. He prays for setting aside the impugned order inasmuch as the same is *ex-parte* order.

4. No objection by learned A.R.

5. Inasmuch as admittedly the appellant's defence reply was not placed on record and the issue relates to examination and verification of various documentary evidences, we set aside the impugned order and remand the matter to the Original Adjudicating Authority for fresh decision.

6. We make it clear that we have not gone into the merits of the case and all the issues are kept open. Further, appellant would be given an opportunity to put forth their case.

(Pronounced & Dictated in Court)

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

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