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

APPEAL No. ST/71380/2018-ST[SM]

(Arising out of Order-in-Appeal No.357/ST/ALLD/2018 dated 28/08/2018 passed by Commissioner (Appeals), CGST & Central Excise, Allahabad)

M/s Publisites Grafix **Appellant**

Vs.

Commissioner, CGST & Central Excise, Allahabad **Respondent**

Appearance:

Ms. Pragya Pandey (Advocate) for Appellant
Shri Sandeep Kumar Singh (Dy. Commr.) AR for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 20/03/2019
Date of Decision : 20/03/2019

FINAL ORDER NO. - **70656/2019**

Per: Anil G. Shakkarwar

After hearing both the sides duly represented by learned advocate Ms. Pragya Pandey on behalf of the appellant and learned Shri Sandeep Kumar Singh Deputy Commissioner on behalf of the Revenue, I note that the appellant is providing 'Advertising Agency Service' to different customers by purchasing space and time from print and electronic media and selling the same to different customers. There is no dispute that the appellant was having service tax registration and also was filing ST-3 returns. During the course of audit the officers examined profit and loss account for the year

2014-15 to 2015-16 and presumed that discount shown in the books of account was commission and treating the discount shown in the profit and loss account as commission raised demand of service tax of Rs.2,06,653/- through show cause notice dated 30/11/2017 for the period from 2014-15 to 2015-16. The Original Authority has confirmed the demand on filing appeal before Commissioner (Appeals) learned Commissioner (Appeals) reduced the penalties. On perusal of record, I note that the amounts which were shown in the books of account as discount were presumed by Revenue to be commission without examining the documents or voucher on the basis which said entries were made in the books of account and without examining the invoices raised by the appellant. I, therefore, find that the said show cause notice is without any basis. I find that the said show cause notice is presumptive in nature and the same is not sustainable. I, therefore, set aside the impugned order and allow the appeal.

(Dictated & Pronounced in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Lks