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

APPEAL No.ST/70851/2016-CU[DB]

(Arising out of Order-in-Appeal No.417-ST/APPL-ALLD/LKO/2016 dated 16.06.2016 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Lucknow)

M/s Metro Infotech System **Appellant**

Vs.

Commissioner, Central Excise, Allahabad **Respondent**

Appearance:

Shri Kapil Vaish (C.A.) for Appellant
Shri Rajeev Ranjan, Additional Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing/ Decision : 16/01/2019

FINAL ORDER NO.**70097/2019**

Per: Anil G. Shakkarwar,

After hearing both the sides duly represented by learned chartered accountant, Shri Kapil Vaish on behalf of the appellant and learned A.R. Shri Rajeev Ranjan on behalf of the Revenue, we note that the appellant were providing services of collection of electricity charges paid by the electricity consumers. The proceedings were initiated against the appellant for the period from 01.05.2007 to 30.04.2010 for recovery of service tax of around Rs.6 lakhs. The Original Authority confirmed the demand. An appeal was preferred before learned Commissioner (Appeals). The appellant claimd benefit of Notification No.45/2010-ST dated 20.07.2010 which exempted all taxable services relating to transmission and distribution of electricity provided by any person for the period before 20.07.2010. The learned Commissioner (Appeals) did not examined the matter with reference to the said Notification No.45/2008-ST dated 20.07.2010 during the proceedings. We have come across a contract where appellant was eligible to collect service tax at the rate of 12.24% on the services provided. The fact of whether the said service tax was collected by the appellant or not is not forthcoming. We, therefore, remand the matter to Original Authority who shall examine the issue with reference to the Notification No.45/2010 dated 20.07.2010.

2. In above terms, after setting aside the impugned order appeal is allowed by way of remand.

(Pronounced & Dictated in Court)

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

Sd/-
(Archana Wadhwa)
Member (Judicial)

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