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

APPEAL No.E/70164,70165/2015-EX[DB]

Sr. No.	APPEAL No.	APPELLANT	RESPONDENT	IMPUNGED ORDER No.
1	E/70164/2015-EX[DB]	M/s B.S.N. Industries Pvt. Ltd.	Commissioner of Central Excise, Noida-I	Order-in-Appeal No.NOI/EXCUS/001/APP/47/2015-16 dated 29/07/2015 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Noida
2	E/70165/2015-EX[DB]	Shri Naresh Goyal, Director	Commissioner of Central Excise, Noida-I	Order-in-Appeal No.NOI/EXCUS/001/APP/48/2015-16 dated 30/07/2015 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Noida

Appearance:
Request for Adjournment for Appellant
Shri Mohd. Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing/ Decision : 18/02/2019

FINAL ORDER NO. **70327-70328 / 2019**

Per: Anil G. Shakkarwar,

After rejecting the request for adjournment, we proceeded to decide the appeals. Above stated two appeals are taken together for decision since both are arising out of two Orders-In-Appeal where order Order-In-Original was common.

2. We have heard learned A.R. Shri Mohd. Altaf and have perused the record. On perusal of record, we note that the appellant were undertaking job work and they were paying service tax for the same. It appeared to Revenue, that the resultant product of the job work were manufactured goods and therefore, Central Excise duty should have been paid by the appellant. It was also the contention of the Revenue that the parts processed by the appellant were used in the further manufacture of the Tractors which were exempted from payment of Central Excise duty, therefore, benefits of Notification No.214/86-CE was also not available to the appellant. Therefore, a show cause notice dated 04.06.2013 was issued to the appellant covering the period from May 2008 to June, 2011 demanding Central Excise duty of around Rs.17 lakhs on the alleged goods cleared on processing to M/s Escorts Ltd. and another Central Excise duty of around Rs.14.62 lakhs in respect of M/s

Indo Farm Equipment Ltd. The proceedings culminated into passing of impugned order where duties were confirmed and penalties were imposed.

3. We note that show cause notice dated 04.06.2013 was issued by invoking proviso to Sub-section (1) of Section 11A of Central Excise Act, 1944 which provided for invocation of extended period. We note that it is not a disputed fact that for the same activity appellant were paying service tax. Therefore, we note that the entire activity was know to Revenue. As such suppression cannot be alleged against the appellant. We, therefore, find that extended period of limitation was not applicable. We, also note that the entire demand is covered by period beyond normal period of limitation. We, therefore, set aside the impugned order and allow both the appeals.

(Pronounced & Dictated in Court)

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

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