CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.70683 of 2017-Division Bench

(Arising out of Order-in-Appeal No.161-ST/APPL-LKO/LKO/2017 dated 17/07/2017 passed by Commissioner (Appeals) CGST & Central Excise, Lucknow)

M/s Haidergarh Chini Mills .....Appellant

(Vill. & Post Pokhra, Haidergarh, Barabanki)

VERSUS

Commissioner of Central Excise, Lucknow ....Respondent

(Commissionerate Lucknow)

APPEARANCE:

Shri Kapil Vaish, Chartered Accountant for the Appellant
Shri Rajeev Ranjan Authorised Representative for the Respondent

CORAM:

HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 70971 / 2019

Date of Hearing : 16 May, 2019
Date of Decision : 16 May, 2019

PER: ARCHANA WADHWA

The challenge in the present appeal is the service tax of Rs.92,659/- confirmed against the appellant under the category of 'Renting of Immovable Property' for the period 2009-10 to 2011-12, by way of raising of show cause notice dated 01/10/2014.

2. The appellant is challenging service tax confirmed on point the of limitation and submitting that during the relevant period "Renting of Immovable Property" was challenged before various

authorities and the issue was not free from doubt. For the said purposes he relies upon this Bench's Final Order No.71333/2018 dated 03/07/2018 in the case of M/s Trade Centre for better appreciation were produced Para-4 of the said order:-

> *"4. At this stage we also take note of the Tribunal's decision in the case of Sujala Pipes Pvt. Ltd. vs. Commissioner of Customs, Central Excise & Service Tax, Guntur reported at 2015 (40) S.T.R. 606 (Tri.-Bang.) laying down that on account of the dispute about the liability of renting of immovable property to service tax, different opinion and retrospective amendment having been brought in, the appellant is entitled bona fide belief and extended period of limitation cannot be held invokable. To the same effect is the Tribunal's another decision in the case of Jindal Vegetable Products Ltd. vs. Commissioner of Central Excise, Meerut-II reported at 2013 (31) S.T.R. 367 (Tri.-Del.)."*

3. Inasmuch as in the present case the demand stands raised by invoking extended period we hold that the same is barred by limitation except the part which falls within the limitation. The same would be quantified by the Lower Authorities.

4. As we have already extended the limitation benefit to the appellant, penalty imposed upon them is also set aside. Appeal is disposed of in above terms.

(Dictated and pronounced in open court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

Lks