**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**
**ALLAHABAD**

REGIONAL BENCH – COURT NO.I

**Service Tax Appeal No.71085 of 2018**

(Arising out of Order-in-Appeal No.151-ST/APPL/KNP/ADG-NACIN/2017-18 dated 12/04/2018 passed by Director of National Academy of Customs, Indirect Taxes & Narcotics, Kanpur)

**M/s Yadav Security Service,** **.....Appellant**

1352/14 Mehandi Bag,

Near Ram JankiMandir, Jhansi

U.P.-284001

*VERSUS*

**Commissioner of Central Excise** **.....Respondent**

Kanpur

**APPEARANCE:**

Written Submission, for Appellant
Shri Shiv Pratap Singh, Authorized Representative for Respondent

**CORAM :**

**Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)**

DATE OF HEARING :14 March, 2019
DATE OF PRONOUNCEMENT :21 May, 2019

FINAL ORDER NO. **71008 / 2019**

**ARCHANA WADHWA**

The appellant have filed written submission with a request to decide the matter on the basis of the same. Accordingly, I have heard learned A.R. Shri Shiv Pratap Singh appearing on behalf of the Revenue and have gone through the impugned order. The appellant was engaged in providing security services for which they were not discharging their service tax liability. The demand to the extent of Rs.2,31,513/- stands confirmed against them for the period 2009-10 and 2013-14, by picking up the figures as reflected in the form 26AS. The appellant deposited the entire service tax along with interest and the only challenge in the present appeal is to penalty of identical amount imposed under Section 78 and 77 of the Finance Act.

2. As per the appellant, there was no mala fide on their part and in fact they detected their liability to pay service tax on their own and calculated the tax liability and deposited the same even before the issuance of show cause notice. All the transactions were recorded by the appellant in their book of account and hence there could be no intention to evade demand of duty. In fact they submitted that they could have challenged the service tax confirmation on the point of limitation but to avoid dispute with the Revenue they deposited the same along with deposit of interest liability, in which case no penalties is imposable upon them. They also referred to Tribunal decision in the case of Sudhir Chand Jain V/s Commissioner of Central Excise, Ghaziabad reported at 2018 (8) G.S.T.L. 302 (Tri.-All.).

3. I note that inasmuch as appellant are not disputing the demand of service tax, which stands confirmed against them by invoking longer period of limitation and inasmuch as there could be a *bona fide* belief on their part. In the absence of any evidence to the contrary, I find that imposition of penalty upon them is not justified. As such while upholding the confirmation of demand of

duty and interest, I set aside the penalty imposed upon them and allow the appeal to that extent.

(Order Pronounced in the open Court on 21 May, 2019)

Sd/-
**(Archana Wadhwa)**
**Member (Judicial)**

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