

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

REGIONAL BENCH – COURT NO.I

Service Tax Appeal No.56908 of 2013

(Arising out of Order-in-Original No.46/Commissioner/Noida/2012-13 dated 30/11/2012 passed by Commissioner, Customs, Central Excise & Service Tax, Noida)

**Commissioner of Customs, Central Excise & Service Tax,
Noida** **.....Appellant**

VERSUS

M/s M.S. Engineers India Pvt. Ltd. **.....Respondent**

Jaypee Greens, G-Block,
Surajpur-Kasna Road,
Greater Noida

APPEARANCE:

Request for Adjournment, for Appellant
Shri Sandeep Kumar Singh, Authorized Representative for Respondent

CORAM :

Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)
Hon'ble Mr. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING : 14 May, 2019
DATE OF DECISION : 14 May, 2019

FINAL ORDER NO.**70954 / 2019**

ARCHANA WADHWA

We have heard learned AR Shri Sandeep Kumar Singh appearing for the Revenue. Nobody appeared for the respondent.

2. The impugned order confirmed demand of more than Rs.2 crore against the respondent along with imposition of penalty to that extent in terms of the provisions of Section 76, 77 & 78 of the Finance Act. The Revenue's only

grievance is that 100% penalty stand imposed in terms of all the three Sections collectively whereas Section 76 & 77 should have imposed separate penalty.

3. The respondent have placed on record that the same impugned order was also challenged by them before this Tribunal and vide its Final Order No.ST/A/50064/2014-CU[DB] dated 07.01.2014 matter was remanded to the Commissioner. Commissioner in remand proceedings passed the order again confirming the demand and imposing penalty. The order passed in *de novo* proceeding was again challenged by the assessee before this Tribunal and the matter was again remanded by Tribunal vide its Final Order No.70865/2019 dated 11.04.2019.

4. As such we see that a lot of water has flown and the order impugned in the present appeal of the Revenue stand merged with the Tribunal's earlier Final Order dated 07.01.2014. As such the present appeal of the Revenue has become infructuous. The same is accordingly dismissed.

(Dictated and Pronounced in open Court)

(Archana Wadhwa)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)

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