CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Service Tax Appeal No.70276 of 2018

(Arising out of Order-in-Appeal No.05-ST/APPL/KNP/2017-18 dated 16/01/2018 passed by Additional Director General, National Academy of Customs, Indirect Taxes and Narcotics, Kanpur)

M/s Vishal Earth Movers **.....Appellant**

1051, Near Hotel Shrinath,

Station Road, Jhansi

VERSUS

Commissioner of Central Excise, Kanpur **.....Respondent**

APPEARANCE:

Shri S.P. Ojha, Cunsultant for Appellant
Shri Pawan 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 :20 May, 2019
DATE OF DECISION :20 May, 2019

FINAL ORDER NO. **71058 / 2019**
ARCHANA WADHWA

The demand of Service Tax to the extent of Rs.81,655/- stands confirmed against the appellant during the warranted period in respect of sale of motor vehicles.

2. We find that the issue is no more *res-integra* and in the case of M/s Focuz Motors V/s Commissioner of Central Excise, Customs & Service Tax (A), Cochin reported as 2009 (16) S.T.R. 42 (Tri.-Bang.) and also in the case of Popular Mega Motors (India) Ltd. V/s Commissioner of Central Excise, Cochin reported as 2010 (17) S.T.R. 373 (Tri.-Bang.) it was held that the warrantee services are not

taxable or their value has not to be included in the value of the services provided by the appellant under the 'Business Auxiliary Service'.

3. As the issue stands settled in their favour, we set aside the impugned order and allow the appeal with consequential relief.

(Dictated and Pronounced in open Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

Nihal