CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Service Tax Appeal No.71252 of 2018

(Arising out of Order-in-Appeal No.318/ST/Alld/2018 dated 30/07/2018 passed by Commissioner (Appeals), CGST & Central Excise, Allahabad)

M/s Star Data Centre **.....Appellant**

151-Rasulabad,

Allahabad-211004

VERSUS

Commissioner of CGST & Central Excise **.....Respondent**

CGST & Central Excise,

38 M.G. Marg Allahabad (U.P.)

APPEARANCE:

Shri S.P. Ojha, Consultant for Appellant
Shri Shiv Pratap Singh, Authorized Representative for Respondent

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

DATE OF HEARING :18 June, 2019
DATE OF DECISION :18 June, 2019

FINAL ORDER NO. **71156 / 2019**

Per: ANIL G. SHAKKARWAR

After hearing both the sides duly represented by learned consultant Shri S.P. Ojha appearing on behalf of the appellant and learned AR Shri Shiv Pratap Singh appearing on behalf of the Revenue, we note that the appellants were providing activity of binding in the premises of printers and said activity was treated as service by Revenue and proceedings were initiated for recovery of service tax amounting to around Rs.5 lakhs by issuance of show cause notice dated 17 May, 2017 which culminated into passing of impugned Order-In-Appeal. The said show cause notice was issued for the Financial Year 2015-16 by invoking extended period of limitation. The learned consultant has argued that that the activity of binding printed question papers in the premises of printers amounted to manufacture whereas he could not establish as to which new product emerges out of such binding, therefore, we are not convinced that the said process amounts to manufacture. In view of such finding, we do not find the said activity to be that of manufacture and we hold that the activity of binding carried out by the appellant in the premises of printer amounted to providing of service. However, the issue was of interpretational nature and there was possibility of interpreting the same to be amounting to manufacture. Therefore, we are of the opinion that there was no *mala fide* on the part of the appellant who has paid service tax on the other services provided by them and filed ST-3 Returns. Therefore, we set aside the demand for the extended period and also set aside the penalties but uphold the demand of normal period of limitation and direct the Jurisdictional Adjudicating Authority to quantify the service tax demand in normal period of limitation along with interest.

2. In above manner appeal is disposed of.

(Dictated and Pronounced in open Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

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