

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

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.70028 of 2018-Division Bench

(Arising out of Order-in-Appeal No.218/ST/ALLD/2017 dated 09/10/2017
passed by Commissioner (Appeals) CGST & Central Excise, Allahabad)

M/s Ram Pyare Yadav

.....Appellant

(Vill.-Ahirani Bujurg Post-Amila, Distt.-Mau, U.P.)

VERSUS

Commissioner of CGST &

Central Excise, Allahabad

....Respondent

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

APPEARANCE:

Shri S.P. Ojha, Consultant for the Appellant

Shri Shiv Pratap Singh, Authorised Representative for the Respondent

CORAM:

HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO.- 71216 / 2019

Date of Hearing : 26 June, 2019

Date of Decision : 26 June, 2019

PER: ARCHANA WADHWA

Demand of service tax to the tune of Rs.3,49,414/- stand confirmed against the appellant for the period 2005-06 to 2008-09 under the category of 'Manpower Supply Agency Services.'

2. After hearing both the sides, we find that the appellant was utilizing certain labours for the purpose of carrying out of the activities of loading, unloading, pushing and processing of iron and steel rods in the factory of M/s Anjani Steel Pvt. Ltd. They were being paid on their performance basis and the

effective control of the labour was not also with M/s Anjani Steel Pvt. Ltd. As such, according to the settled law it cannot be said that there was any supply of manpower services involved. Reference can be made to the Tribunal decisions in the case of Om Enterprises vs. Commissioner of Central Excise, Pune-I 2018 (17) G.S.T.L. 260 (Tri.-Mum.), Commissioner of Central Excise & Customs, Vadodara vs. Narmada Chematur Pharmaceuticals Ltd. 2005 (179) E.L.T. 276 (S.C.) and Uniflex Cables Ltd. vs. Commissioner of Central Excise, Surat-II 2011 (271) E.L.T. 161 (S.C.).

3. Inasmuch as the issue stands decided in favour of the assessee, we set aside the impugned order and allow the appeal with consequential relief to the appellant.

(Dictated and pronounced in open court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

Lks