CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, ALLAHABAD

REGIONAL BENCH : COURT NO.I

Service Tax Appeal No.70751 of 2018

(Arising out of Order-in-Appeal No.131/ST/Appeal/Audit/LKO/2018/ dated 20.03.2018 passed by Commr.(Appeals) of Central Goods & Services Tax & Central Excise, Lucknow.)

M/s. Ram Management Services
(1/682, Vishal Khand, Gomti Nagar,
Lucknow-226010)

...Appellant

VERSUS

Commr. of Central Excise & Service Tax, Lucknow
.....Respondent
(7A, Ashok Marg, Lucknow)

APPEARANCE

Shri Dushyant Kumar, Consultant for the Appellant (s)
Shri Shiv Pratap Singh (Dy.Commr.) (A.R.) for the Revenue

CORAM:

HON'BLE MRS. ARCHANA WADHWA, MEMBER(JUDICIAL)
HON'BLE SHRI ANIL G. SHAKKARWAR, MEMBER(TECHNICAL)

FINAL ORDER NO. 71251 / 2019

DATE OF HEARING : 18 June 2019
DATE OF DECISION : 3 July 2019

MRS. ARCHANA WADHWA :

After hearing both sides it is seen that the demand of Service Tax stands confirmed against the appellant on the basis of the 26AS returns filed by the appellant with the Income Tax authorities.

2. We note that appeal can be disposed of on a short ground. Tribunal in the case of Kush Constructions v. CGST NACIN, ZTI, KANPUR [2019 (24) G.S.T.L. 606 (Tri.-All.)] has held that difference in

the figures reflected in ST-3 returns and Form 26AS filed under Income Tax Act cannot be made the basis for raising Service Tax demand without examining the reasons for such difference and without examining whether amount reflected in the said Income Tax return was the consideration for providing any taxable services or not.

3. Inasmuch as in the present case the demand is based only on the above basis of Form 26 AS, we find no reasons to sustain the confirmation. Accordingly the impugned order is set aside and appeal is allowed with consequential relief to the appellant.

(Order pronounced in the open court on 03/07.2019.)

SD/
(ARCHANA WADHWA)
MEMBER (JUDICIAL)

SD/
(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

sm