CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.71257 of 2018-Single Member

(Arising out of Order-in-Appeal No. NOI-EXCUS-001-APP-1769-17-18 dated 28/02/2018 passed by Commissioner (Appeals) Goods & Central Tax, Noida)

M/s Prima Telecom Ltd. **.....Appellant**

(B-215, Phase-II, Noida)

VERSUS

Commissioner (Appeals) Goods

& Central Tax, Noida **....Respondent**

(C-56/42, Sector-62, Noida)

APPEARANCE:

Shri Nitin Jindal, Chartered Accountant for the Appellant
Shri Shiv Pratap Sigh, Authorised Representative for the Respondent

CORAM:

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

FINAL ORDER NO.- 71261 / 2019

Date of Hearing : 28 June, 2019
Date of Decision : 28 June, 2019

PER: ARCHANA WADHWA

Learned advocate appearing for the appellant assails impugned order on the point of limitation, though he submits that even on merits the issue stands decided in his favour by number of precedent decisions of the Tribunal, as regards the payment of service tax on the salary of the employees reimbursed by their sister concern.

2. Arguing on limitation he submits that demand is based upon the audit objection which was conducted in July, 2012.

Show cause notice stands raised on 30/03/2016 i.e. almost after a gap of more than three and half years. Reliance stands placed upon the Hon'ble Allahabad High Court decision in the case of Commissioner of Central Excise & Service Tax vs. Triveni Engineering & Industries Ltd. 2015 (317) E.L.T. 408 (All.) who has observed that the show cause notice issued after a gap of twenty two months from the date of audit is barred by limitation**.**

3. In view of the above, I set aside the impugned order on the ground of limitation and allow the appeal with consequential relief to the appellant.

(Dictated and pronounced in open court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Lks