CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, ALLAHABAD

REGIONAL BENCH : COURT NO.I

Service Tax Appeal No.70013 of 2018

(Arising out of Order-in-Appeal No.NOI-EXCUS-001-APP-1304-17-18 dated 17 October 2017 passed by Commr.(Appeals) of Central Excise, Noida.)

M/s. Prompt Services
(B-55, Sector 56, Noida)

...Appellant

VERSUS

Commr. of Central Excise & Service Tax, Noida

.....Respondent

(C-56/42, Sector-62, Noida (U.P.))

APPEARANCE

Shri Amit Kumar Prasad, Advocate for the Appellant (s)
Shri P.K.Dubey, Authorized Representative for the Revenue

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

FINAL ORDER NO. 71422/2019

DATE OF HEARING : 25 July 2019
DATE OF DECISION : 25 July 2019

ANIL G. SHAKKARWAR :

After hearing both sides duly represented by Shri Amit Kumar Prasad, learned Advocate for the Appellant and Shri P.K.Dubey, learned Authorized Representative for the Revenue, we note that learned Commissioner(Appeals) has rejected appellant's appeal before him for the reasons that the appeal before learned Commissioner(Appeals) was filed after expiry of 809 (eight hundred and nine) days. The Appellant claimed before the learned Commissioner(Appeals) that there was delay of 7 (seven) months in receiving the order-in-original by the

Appellant. However, there was no satisfactory explanation for delay of more than 500 (five hundred) days therefore in terms of the provisions of section 35A of Central Excise Act, made applicable to Service Tax matters through section 83 of Finance Act, 1994, the learned Commissioner(Appeals) rejected Appellant's appeal as time barred. The issue is no more *res integra* and settled by the decision of Hon'ble Supreme Court in the case of Singh Enterprises v. Commissioner of Central Excise, Jamshedpur [2008 (221) E.L.T. 163 (SC)] wherein Hon'ble Supreme Court has ruled that Commissioner(Appeals) under Central Excise Act, does not have authority to condone delay beyond the period provided by the law. We therefore do not find any merit in the present appeal. Accordingly the present appeal is rejected.

(Dictated and pronounced in the open Court.)

SD/
(ARCHANA WADHWA)
MEMBER (JUDICIAL)

SD/

(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

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