

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

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.70064 of 2019

(Arising out of Order-in-Appeal No. NOI-EXCUS-001-APP-1908-17-18 dated 26/03/2018 passed by Commissioner (Appeals) Central Goods & Services Tax, Noida)

M/s Cold Wave Refrigeration

.....Appellant

(D 368, 1st Floor, Sector-10, Noida-201301)

VERSUS

Commissioner (Appeals) Central Goods

& Services Tax, Noida

....Respondent

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

APPEARANCE:

Shri Abhinav Kalra, Chartered Accountant for the Appellant
Shri Pawan Kumar Singh, Authorised Representative for the Respondent

CORAM:

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

FINAL ORDER NO. - 71536 / 2019

Date of Hearing : 13 August, 2019
Date of Decision : 13 August, 2019

PER: ANIL G. SHAKKARWAR

After hearing both the sides duly represented by Shri Abhinav Kalra learned Chartered Accountant on behalf of the appellant and Shri Pawan Kumar Singh learned Superintendent on behalf of the Revenue, I note that demand of around Rs.46,000/- was raised against the appellant through show cause notice dated 07 December, 2016 for the

Financial Year, 2011-12 to 2014-15 on the basis of difference between figures reflected in ST-3 returns and balance sheet or Form 26-AS. Service tax demand of said amount was confirmed with equal penalty through Order-in-Original which was not interfered with by the learned Commissioner (Appeals). Therefore, the appellant is before this Tribunal.

2. On perusal of record, it is very clear that the appellants were regularly paying service tax and filing ST-3 returns. Without going into the reasons for difference in the figures reflected in ST-3 returns and those reflected in balance sheet or Form 26-AS Revenue has presumed that the difference is on account of provision of service without any evidence and confirmed the demand. I hold that such demand is not sustainable. I, therefore, set aside the impugned order and allow the appeal. Appellant shall be entitled for consequential relief, as per law.

(Dictated and pronounced in open court)

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

Lks