CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.70822 of 2018

(Arising out of Order-in-Appeal No.129-CE/APPL/LKO/2018 dated 13/02/2018 passed by Commissioner of Central Excise & GST (Appeals), Lucknow)

M/s K.R. Pulp & Papers Ltd., **.....Appellant**

(Unit-II, Jalalabad Road, Shahjahanpur)

VERSUS

Commissioner of Central Excise, **....Respondent**

(Lucknow)

APPEARANCE:

Absent on call, for the Appellant
Shri Shiv Pratap Singh, Deputy Commissioner, Authorised Representative for the Respondent

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

FINAL ORDER NO-71585 / 2019

DATE OF HEARING : 23 August, 2019
DATE OF DECISION : 23 August, 2019

PER: ARCHANA WADHWA

Nobody appeared on behalf of the appellant. Accordingly, I have heard learned A.R. and have gone through the impugned order. The appellant is engaged in the manufacture of 'Writing Paper' and were availing the Cenvat credit of duty and tax paid on various inputs and input services.

2. The dispute in the present appeal relates to the Cenvat credit of Rs.2,72,310/- availed by the appellant in respect of the service received as Chip Yard Flooring, which is a construction of a civil structure and stands specifically excluded from the

definition of input services. The proceedings were initiated against the appellant on the basis of an objection raised by the audit in the month of October, 2014. Apart from the contesting the demand on merits, the appellants have also contended that the demand is barred by limitation, inasmuch as, the show cause notice was issued on 18.03.2016 i.e. beyond the period of one year from the date of the audit i.e. October, 2014.

3. I find that the Hon'ble Allahabad High Court in the case of Commissioner of Central Excise & Service Tax Vs M/s Triveni Engineering & Industries Ltd. reported as 2015 (317) ELT 408 (All) has held that the show cause notice issued beyond the normal period of one year from the date of the audit conducted is barred by limitation, inasmuch as, the revenue comes to know about the offence while conducting the audit.

4. I find in the present case that the audit was conducted in October, 2014 and the show cause notice was issued on 18.03.2016, the same is required to be held as barred by limitation. As such, without going into merits of the case, I set aside the impugned order on the above ground and allow the appeal with consequential relief to the appellant.

(Dictated and pronounced in open court)

(Archana Wadhwa)
Member (Judicial)

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