CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.70337 of 2019-[DB]

(Arising out of Order-in-Appeal No.07/ST/ALLD/2019 dated 22/01/2019 passed by Commissioner of Customs, Central Excise & Service Tax, Allahabad)

M/s S R Construction Company, ...**Appellant**

(LIG-147, ADA Colony Neem Sarai, Dhoomanganj, Allahabad)

VERSUS

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

(Allahabad)

APPEARANCE:

Shri Amit Kumar Prasad, Proxy Counsel for the Appellant
Shri Santosh Kumar Agarwal, Authorised Representative for the Respondent

CORAM: **HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)**
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO-71681 / 2019

DATE OF HEARING : 30 August, 2019
DATE OF DECISION : 30 August, 2019

PER: ARCHANA WADHWA

After rejecting the request for adjournment made by learned proxy Counsel Shri Amit Kumar Prasad, we proceed to decide the appeal itself, inasmuch as, a short issue is involved.

2. Service Tax of Rs.12,98,243/- stands confirmed against the appellant under the category of 'Works Contract' etc. and the appellant have not disputed the confirmation of said service tax liability. The only challenge in the present appeal is to imposition of penalty under Section 78 of the Finance Act on the ground

that they had reflected the entire transaction in the financial records made by them and revenue have picked up the figures from the said records only. This shows that there was no malafide on their part and they are eligible for the benefit under Section 80 of the Finance Act.

3. While dealing with the said plea of the assesse, Commissioner (Appeals) has accepted that the entire information was available in the record maintained by the assessee and accordingly, he reduced the penalty to 50% of the demand i.e. to the extent of Rs.6,49,122/-.

4. We are of the view that once an assessee is maintaining proper records and is reflecting his entire business transactions in the records maintained by them, it can be concluded that he was acting in a bonafide manner and there could be no malafide intention on his part so as to call for any imposition of penalty upon him.

5. Accordingly, while confirming the demand, as not contested, we set aside the penalties imposed upon him and allow the appeal to that extent.

(Dictated and pronounced in open court)

(Archana Wadhwa)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)

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