# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

**Service Tax Appeal No.70439 of 2019-Division Bench**

(Arising out of Order-in-Appeal No. MRT/EXCUS/000/APPL-MRT/506/2018-19 dated 12/02/2019 passed by Commissioner of Central Goods & Services Tax (Appeals), Meerut)

**Principal Commissioner of Central GST, Meerut** .....**Appellant**

(Opp. CCS University, Meerut)

*VERSUS*

**M/s Yogesh Associates** ....**Respondent**

(29/6, Bich Pattiyan, Hapur Road, Kharkhauda, Meerut)

**APPEARANCE:**

Shri Shri Pawan Kumar Singh, Authorised Representative for the Appellant
Shri Ram Krishna Pandey, Advocate for the Respondent

**CORAM:**

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

**FINAL ORDER NO. - 71700 / 2019**

Date of Hearing : 04 September, 2019
Date of Decision : 04 September, 2019

**PER: ARCHANA WADHWA**

Being aggrieved with the order passed by Commissioner (Appeals) Revenue has filed the present appeal. We have heard learned A.R. Shri Pawan Kumar Singh appearing for the Revenue and Shri Ram Krishna Pandey learned advocate appearing for the respondent. The dispute in the present appeal relates to service tax of Rs.62,62,673/- pertaining to the year 2011-12 to 2014-15. Commissioner (Appeals) has observed that the respondents have filed ST-3 returns for the said period and have self-assessed the duty amount and deposited the same before issuance of the show cause notice in which case the provisions of Section 73 required non-issuance of the show cause notice. As regards the balance of Rs.6,65,683/- he has confirmed the same alongwith imposition of penalty of identical amount.

2. Revenue is not disputing the fact that the self-assessed service tax was paid before issuance of the show cause notice. Their only grievance is that since the said amount was paid on investigation, the issuance of the show cause notice for imposition of penalty was justified.

3. We find no merits in the above contention of the Revenue. Admittedly the respondent has deposited the amount on the basis of self-assessed ST-3 returns in which case there was no requirement of issuance of the show cause notice in terms of the provisions of Section 73 of the Finance Act. As such, we find no merits in the Revenue's case. Their appeal is accordingly rejected.

(Dictated and pronounced in open court)

**Sd/-**
**(Archana Wadhwa)**
**Member (Judicial)**

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

*Lks*