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

REGIONAL BENCH – COURT NO.I

**Service Tax Condonation of Delay Application No.70212 of 2019**
(on behalf of Appellant)
**In**
**Service Tax Appeal No.70340 of 2019**

(Arising out of Order-in-Appeal No.495-ST/APPL/LKO/2018 dated 20/09/2018 passed by Commissioner (Appeals), Customs GST & Central Excise, Lucknow)

**M/s Cantonment Board** .....**Appellant**

(114, Fatehpur Sikri Road

Agra, 282001-U.P.)

*VERSUS*

**The Assistant Commissioner Customs,**

**GST & Central Excise** .....**Respondent**

(3/194, Vishal Khand-3,

Gomati Nagar Lucknow)

**APPEARANCE:**

Shri Apurva Hajela And Abhishek Srivastava Advocate for Appellant
Shri Santosh Kumar Agarwal, Authorized Representative for Respondent

**CORAM :**
**Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)**
**Hon'ble Mr. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO.71683/2019**

DATE OF HEARING : 02 September, 2019
DATE OF DECISION : 02 September, 2019

**PER: ARCHANA WADHWA**

After hearing both the sides duly represented by learned counsel Shri Apurva Hajela and Abhishek Srivastava on behalf of the appellant and learned A.R. Shri Santosh

Kumar Agarwal on behalf of the revenue, we find that the impugned order was passed by the Commissioner (Appeals) on 20.09.2018 and was received by the appellant on 16.10.2018. The appeal was required to be filed before Tribunal within a period of three months which expired on or around 16.01.2019 whereas the appeal stands filed on 16.04.2019, with a delay of three months. As per the learned advocate the appellant is a Government of India and falling under the Ministry of Defence and as per their system, they have to seek approval from their higher authorities for the purpose of filing an appeal, which took considerable time.

2. Appreciating the above stand, we condone the delay. We further note that a small issue is involved and the appeal itself can be disposed of. Accordingly we proceed to dispose of the appeal itself.

3. The service tax of Rs.3.36 lakhs approx. stands confirmed against the appellant for the period 30.08.2012 to 16.09.2014 on the ground that the appellant is letting out space to the contractors for the purpose of parking space and have received monetary consideration which amounts to providing of service. The order of the Original Adjudicating Authority stand modified by Commissioner (Appeals) to the extent that the benefit of threshold limitation of Rs.10,00,000/-(ten lakhs) stand extended for the financial year 2012-13 alongwith reducing the penalty to 25% of the service tax amount. He had remanded the matter to the Original Adjudicating Authority for re-quantification of the demand of service tax.

4. We find that the demand pertains to the period 01 July, 2012 to 16 September, 2014 and the show cause

notice was issued on 13.10.2016, while invoking the longer period of limitation. The appellant is a department of defence ministry and no *mala fide* can be attributed to them so as to invoke the longer period. We are of the view that the demand raised behind the normal period is fully time barred and is liable to be set aside on this ground alone. Accordingly, we set aside the impugned order and allow the appeal itself. COD Application also gets disposed of.

(Dictated and Pronounced in open Court)

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

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

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