CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
SCO 147-148, SECTOR 17-C, CHANDIGARH-160017

SINGLE MEMBER BENCH
Court-I
Appeal No.ST/61200/2018

(Arising out of OIA No.CHD-EXCUS-001-APP-263-17-18 dt.4.1.2018 passed by the CCE (Appeals), Chandigarh)

Date of hearing/Decision:10.09.2018

M/s. Berkley Realtech Limited **Appellant**

Vs.
CCE & ST, Chandigarh-I **Respondent**

Present for the Appellant: Shri Pawan Kumar Pahwa, Advocate
Present for the Respondent: Shri G.M.Sharma, AR

Coram: Hon'ble Mr. Ashok Jindal, Member (Judicial)

FINAL ORDER NO.62929/2018

PER: ASHOK JINDAL

The appellant is in appeal against the impugned order wherein a penalty has been imposed under Section 78 of the Finance Act, 1994.

2. The facts of the case are that the appellant is providing construction services to their clients during December, 2010 to December, 2011. The appellant has taken certain amount on account of advances from their clients. The appellant was under the impression that no service tax is payable by them on the advances, therefore, till providing of the services, no service tax was paid by the appellant. During scrutiny of record, when it was pointed to the appellant, the appellant has paid the entire service tax along with interest. Later on, a show cause notice was issued to the appellant on 20.3.2014 by invoking the extended period of limitation to impose penalty on the appellant. The matter was

adjudicated, the penalty was imposed under Section 78 on the appellant.

3. Heard the parties. Considering the fact that as the appellant has paid the entire service tax along with interest on pointing out by department before issuance of show cause notice, in terms of Section 73 (3) of the Act, the penalty is set aside.

4. In the result, the appeal is allowed with consequential relief, if any.

(dictated and pronounced in the court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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