CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SCO 147-148, SECTOR 17-C, CHANDIGARH – 160 017

SINGLE MEMBER BENCH
COURT NO. I

APPEAL NO. ST/60652/2018

[Arising out of Order-in-Appeal No. CHD-EXCUS-001-APP-458-17-18 dated 26.02.2018 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

Date of hearing/decision: 14.03.2019

Municipal Council	:	**Appellant(s)**
VS		
C.C.E. & S.T.- Shimla	:	**Respondent(s)**

Appearance:
Present for the Appellant(s): Shri Joy Kumar (Advocate)
Present for the Respondent(s):Shri Harvinder Singh (AR)

CORAM:

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

FINAL ORDER NO. 60241/2019

***Per :* Ashok Jindal**

The appellant is in appeal against the impugned order wherein the demand of service tax under the category of "Renting of Immovable Property Service" and providing the space for advertisement by invoking the extended period of limitation has been confirmed.

2. The facts of the case are that the appellant is a Municipal Corporation Statutory Body corporated under the State Government Act. They are having a certain space and sites for advertisement. They have rented out the space on rent and also provided the sites for advertisement but were not paying service tax during the period 01.10.2007 to 30.09.2012, and 01.10.2012 to

31.12.2013. After investigation, two show cause notices dated 23.04.2013 and 24.03.2014 were issued to the appellant for recovery of service tax and to impose penalty thereon. The matter was adjudicated, the demand of service tax was confirmed along with interest and penalty was also imposed. Against the said order, the appellant is before me.

3. The Ld. Counsel submitted that they are not contesting the liability of service tax but are praying that extended period of limitation is not invokable in this case and no penalty is imposable.

4. Heard the parties.

5. Considering the fact that the appellant is being a statutory body and is not going to get any benefit for non payment of service tax, in that circumstances, malafides against the appellant are absent. The same view was taken by this Tribunal in the case of ***Municipal Counicil*** Vide ***Final Order No. 63486/2018*** dated **29.11.2018**, therefore, I hold that the demand beyond the period within limitation is not sustainable. Accordingly, the same is set aside. As the extended period is not invokable, therefore, no penalties are imposable on the appellant for the demands pertains to extended period of limitation.

Further, I find that the appellant has not paid service tax despite issuance of the show cause notice for the period within limitation, therefore, the penalty on the appellant is confirmed for the normal period of limitation for non-payment of service tax.

6. In view of the above, the following order is passed:

a) The demand for the normal period of limitation is confirmed along with interest and

b) penalty for the demand within the normal period of limitation is also affirmed, the penalty under Section 77 of the act is also affirmed.

7. With these observations, the appeal is disposed of.

(Order dictated and pronounced in the court)

Ashok Jindal
Member (Judicial)

Kailash