

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal No. 50833 of 2018

(Arising out of Order-in-Appeal No. 70/Central Tax/Appl-II/Delhi/2017 dated 26.12.2017 passed by Commissioner of CGST, (Appeal-II), EIL Annexe Building, Bhikaji Cama Place, New Delhi-110066)

CGST South Commissionerate,

2nd & 3rd Floor, EIL Annexe Building,

Bhikaji Cama Place,

New Delhi-110066

..... Appellant

VERSUS

M/s NBCC (India) Ltd.

Estate Maintenance Office,

New Moti Bagh, GPRA,

New Delhi-110021

.....Respondent

APPEARANCE:

Dr. Radhe Tallo, Authorized Representative of the Department

None for the Respondent

**CORAM : HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)**

FINAL ORDER NO. 50592/2023

DATE OF HEARING: 27 April, 2023

JUSTICE DILIP GUPTA

The sole issue that has been raised by the Department in this appeal is as to whether the Commissioner (Appeals), while exercising powers section 85 of the Finance Act, 1994¹, has the power to remand the matter to the adjudicating authority.

2. This issue has been decided by a Division Bench of the Tribunal in **KEI Industries Limited Vs. Commissioner (Appeals) C.E. & CGST, Jaipur**² and it has been held that the Commissioner (Appeals) has such a power. This issue has also been decided by a Division

1. the Finance Act

2 . Service Tax Appeal No. 50949 of 2021 decided on 06.01.2023

Bench of the Tribunal at Ahmedabad in **Commissioner of Service Tax, Ahmedabad Vs. Torrent Pharmaceuticals Limited³**.

3. In view of the aforesaid decisions of the Tribunal, the appeal filed by the Department deserves to be dismissed and is dismissed.

(Order dictated and pronounced in the open Court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Rekha