CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH - COURT NO. III

Service Tax Appeal No.52918 OF 2019

[Arising out of Order-in-Appeal No.88/Central Tax/Appl-II/Delhi/2019 dated 30.09.2019 passed by the Commissioner, Central Tax, (Appeals-II), Delhi]

Principal Commissioner of CGST,
Delhi South Commissionerate, **...Appellant**
3rd Floor,EIL Annexe Building,
Bhikaji Cama Place,
New Delhi-110 066.

Versus

M/s.S.K.Cable Network **.....Respondent**
F-10, Lado Sarai,
New Delhi-110 030.
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Appearance
Present for the Appellant : Shri Mehboob Ur Rehman, Authorised Representative
Present for the Respondent: None

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MS. HEMAMBIKA R.PRIYA, MEMBER (TECHNICAL)

Final Order No. 50753/2026

Date of Hearing/Decision:17.04.2026

BINU TAMTA:

1. The Revenue is in appeal against the Order-in-Appeal[1] dated September 30, 2019 allowing the appeal of the assessee relying on the copy of the ledger accounts certified by the Chartered Accountant for the relevant period.

2. The submission of the learned Authorised Representative for the Department is that the said documents were not produced by the

[1] No.88/Central Tax/Appl-II/Delhi/2019

assessee before the Adjudicating Authority and hence no reliance could be placed thereon. It is also his submission that the other related documents such as invoices, 26-AS and balance sheets were not placed on record. Learned Authorised Representative has relied on the provisions of Rule 5 of Central Excise Rules (Rules, 2001), which specifically provides that the appellant shall not be entitled to produce before the Commissioner (Appeals) any evidence other than the evidence produced before the Adjudicating Authority. Learned Authorised Representative has referred to the decisions of this Tribunal in the case of **Toyota Kirloskar Motor Ltd. Vs. CCE, Aurangabad**[2]**,** wherein the Bench has observed that neither the records nor books of accounts nor any invoices were placed on record and, therefore, the same could not have been relied upon. In the circumstances, he prays that the impugned order needs to be set aside and the matter needs to be remanded to the Original Authority.

3. Despite service of notice on the appellant, none has been appearing on their behalf even though several opportunities having been granted. We have perused the impugned orders and the additional documents placed on record.

4. We agree with the submissions of the learned Authorised Representative for the Department and also the observations made by the Tribunal in **Toyota Kirloskar Motor Ltd.** as under:-

> **"11.** It is pertinent to note that the Cost Accountant's certificates do not specify any records or books of account which were claimed to have been verified at his end. Even

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[2] 2012 (286) ELT 690 (Tri.-Bang.)

> the certificate issued on 17-6-2002 is silent about specific records or other books of account. No records or books of account, nor any invoices, were produced by the assessee before the Hon'ble High Court or the Hon'ble Supreme Court. Apparently, before both the courts, they claimed to be able to furnish additional evidentiary materials apart from Cost Accountant's certificates. Nevertheless, the assessee has not been able to produce any such materials before us. Even there is no answer to our query as to how, in the total absence of invoices and other records and books of account, the Cost Accountant was able to issue the three certificates dated 18-11-2011."

5. We, therefore, remand the matter to the Adjudicating Authority, granting liberty to both the sides to place on record all the documents for consideration.

6. The impugned order is hereby set aside. The appeal is, allowed by way of remand.

[Order dictated & pronounced in open court]

(BINU TAMTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Ckp.