CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

<u>BENCH-DB</u>

<u>COURT –III</u>

<u>Service Tax Appeal No.ST/298/2012-ST [DB]</u>

[Arising out of Order-in-Appeal No. 424/S.Tax/D-II/2011 dated 03.12.2011 passed by the Commissioner of Central Excise,(Appeals), Delhi.]

M/s. Kuoni Travels (i) Pvt. Ltd. ...Appellant

Vs.

C.S.T.,-Delhi …Respondent

Appearance:
Mr. SahilMiglani, Consultant & Mr. Abhisek Kumar, Consultant,(Advocates) for the Appellant

Ms. Neha Garg, DR for the Respondent

CORAM:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)
Hon’ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing/Decision..09.05.2017

<u>Final Order No. 53868 /2017</u>

<u>Per S.K. Mohanty</u>:

This appeal is directed against the impugned order dated 22.11.2011 passed by the Commissioner (Appeals), Customs & Central Excise, Delhi.

2. Heard both sides and perused the records.

3. The issue involved in this appeal relates to self-adjustment of service tax paid in excess earlier, against the service tax payable for the subsequent period.

4. On perusal of the impugned order, we find that the appellant had not produced the documents before the authorities below to support its claim that higher service tax was paid, which it sought to adjust in the subsequent period. Since no documentary evidences were produced by the appellant, we are of the view that there is no infirmity in the impugned order in rejecting the appeal of the appellant. However, since the appellant claims that the necessary documents are available with it, we are of the view that the matter should go back to the original authority for verification of requisite documents to be submitted by the appellant.

5. Accordingly, after setting aside the impugned order, we allow the appeal by way of remand to the original authority for verification of the documents to the effect that the appellant had paid excess service tax into the Government Exchequer, which it sought to adjust against the service tax liability for the subsequent period. If the documents are in order to support its claim that excess amount of tax has in fact been paid by it, the benefit of Rule 6 of the Service Tax Rules, 1994 should be extended by the original authority.

Needless to say that opportunity of personal hearing should be granted to the appellant before deciding the matter afresh.

6. The appeal is allowed by way of remand.

(Operative Portion and pronounced in the open court)

(V. Padmanabhan)	(S. K. Mohanty)
Member(Technical)	Member (Judicial)

Sakshi