IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

BENCH-DB

COURT –IV

Service Tax Appeal No.ST/72/2012-CU [DB]

[Arising out of Order-in-Appeal No.IND/CEX/000/APP/338, 339/11 dated 11.08.2011 passed by the Commissioner (Appeals-I), Customs & Central Excise, Indore]

Mr. Mahesh Kumar Agrawal and
Mrs. Karuna Agrawal …Appellant

Vs.

C.C.E., Indore … Respondent

Present for the Appellant : Mr.Krishan Garg, Advocate
Present for the Respondent: Mr.Ranjan Khanna, D.R.

Coram:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. B.RAVICHANDRAN, MEMBER (TECHNICAL)

Date of Hearing / Decision : 04/08/2017

FINAL ORDER NO. 55918/2017

PER: S.K. MOHANTY

This appeal is directed against the impugned order dated 11.08.2011 passed by the Commissioner (Appeals), Customs, Central Excise and Service Tax, New Delhi.

2. The ld. Consultant appearing for the appellant submits that the impugned order was passed by the ld. Commissioner (Appeals) in respect of the appellant M/s. Lalit Mohan Garg, as well as the present appellants Mr. Mahesh Kumar Agrawal and Mrs.Karuna Agrawal. He further submits that the appeal filed by Lalit Mohan Garg was disposed of by the Tribunal vide Final Order No.51743/2015 dated 22.05.2015, wherein the impugned order was set aside and the appeal was allowed in its favour with consequential benefit of refund. Thus, he submits that since the impugned order dated 11.08.2011 passed by the Commissioner (Appeals) has already been set aside in favour of the other appellant M/s.Lalit Mohan Garg, the said stand can be taken for the present appellant also.

3. The ld. DR appearing for the Revenue has no objection for the submissions made by the appellant.

4. Heard both sides.

5. We find that the impugned order dated 11.08.2008 passed by the ld. Commissioner (Appeals) has already been set aside by this Tribunal vide Final Order dated 22.05.2015 and the consequential benefit of refund has already been granted in favour of one of the appellants. Since the impugned order is no more exists for judicial scrutiny, we are of the view that the order dated 22.05.2015 passed by this Tribunal can be equally

applied in this case for consideration of the appeal filed by the present appellant. Accordingly, in line with the findings made by the Tribunal, we allow the appeal in favour of the appellant with consequential benefit of refund.

[Dictated and pronounced in the open Court]

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita