IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

BENCH-SM

COURT –III

Service Tax Appeal No.ST/50640/2014 [SM]

[Arising out of Order-in-Appeal No.195(ST)/RPR-I/2013 dated 13.11.2013 passed by the Commissioner (Appeals-I), Customs, Central Excise & Service Tax, Raipur]

M/s.Gopal Steel **...Appellant**

Vs.

C.C.E. & S.T., Raipur **... Respondent**

Present for the Appellant : Mr.Ashok Anand, Advocate
Present for the Respondent: Ms.Neha Garg, D.R.

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

Date of Hearing/Decision: 17/10/2017

FINAL ORDER NO. 57343/2017

PER: S.K. MOHANTY

This appeal is directed against the impugned order dated 13.11.2013 passed by the Commissioner (Appeals), Customs, Central Excise and Service Tax, Raipur in upholding the adjudged demand confirmed in the adjudication order.

2. The ld. Advocate appearing for the appellant submits that based on the intelligence report, the Central Excise Department conducted search at the premises of appellant and found that the appellant had provided business auxiliary service to various persons and did not pay Service Tax attributable to such service. He further submits that including the appellant herein, the Department also initiated proceedings against various manufacturers for confirmation of the Central

Excise duty demand. He also submits that in respect of the adjudication orders passed against the manufacturers, the Tribunal vide Final Order dated 27.01.2015 in the case of Seleno Steels Ltd. vs. Commissioner of Central Excise, Raipur - 2015 (324) ELT 732 (Tri-Del.) has remanded the matter to the adjudicating authority for fresh hearing after complying with the formality of cross-examination of the commission agent. Thus, the ld. Advocate submits that since the matter arising out of the present dispute is sub-judice before the adjudicating authority, in view of the Final Order dated 27.01.2015 passed by this Tribunal, the present appeal should also be allowed by way of remand to the original authority.

3. The ld. D.R. has no objection to the submissions made by the Advocate for the appellant.

4. In view of the fact that on identical set of facts and circumstances of the case, the Tribunal has remanded the matter to the original authority for de-novo adjudication, I am of the view that the present appeal cannot be proceeded with on the basis of the pendency of the matter before the original authority. Therefore, after setting aside the impugned order, I remand the matter to the original authority for passing the de-novo adjudication order in line with the Final Order dated 27.01.2015 passed by the Tribunal.

5. In the result, the appeal is allowed by way of remand to the original authority.

[Dictated and pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita