

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
WEST ZONAL BENCH AT MUMBAI  
COURT NO.**

**Appeal No. ST/85766/2015**

(Arising out of Order-in-Appeal No.NGP/EXCUS/000/APP/245/14-15 dt.06.01.2015 passed by the Commissioner (Appeals) Central Excise & Customs, Nagpur)

**M/s. Super Security Services : Appellant**

**VS**

**Commissioner of Central Excise, Customs & Service Tax, Nagpur : Respondent**

**Appearance**

Shri D.H. Nadkarni, Advocate for Appellant

Shri O.M. Shivalikar, Asstt. Commr. (A.R) for respondent

**CORAM:**

**Hon'ble Dr. D.M. Misra, Member (Judicial)**

**Hon'ble Mr. C.J. Mathew, Member (Technical)**

**Date of hearing : 13/12/2018**

**Date of decision : 13/12/2018**

**ORDER NO. A/88180/2018**

***Per : Dr. D.M. Misra***

This is an appeal filed against Order-in-Appeal No. NGP/EXCUS/000/APP/245/14-15 dt. 06.01.2015 passed by the Commissioner (Appeals) Central Excise & Customs, Nagpur.

2. Briefly stated the facts of the case are that the appellant had provided services under the taxable category of 'security agency service' during the relevant period but failed to discharge

appropriate service tax. Consequently, show cause notice was issued to them for recovery of the service tax not paid during the period 2006-07 to 2010-11 amounting to Rs.35,56,754/- with interest and penalty. On adjudication, the demand was confirmed with interest and penalty. Aggrieved by the said order they filed an appeal before the Ld. Commissioner (Appeals) whereunder the appellant had challenged denial of cum- tax benefit while computing and confirming the demand. The Ld. Commissioner (Appeals) rejected their appeal. Hence, the present appeal.

3. At the outset, the Ld. Advocate for the appellant submits that in the impugned order the Ld. Commissioner (Appeals) has denied cum-tax benefit on the ground that appellant did not provide copy of the agreement relating to provision of taxable service so as to consider the admissibility-cum-tax benefit to them in computing the demand. He submits that the necessary agreement between the appellant and the Dy. Municipal Commissioner NMC, Nagpur is available now with them. Hence, he prays that the matter may be remanded to the adjudicating authority to re-compute the demand by extending cum-tax benefit, subject to verification of documents.

4. Ld. AR for the Revenue has no objection in remanding the matter to the adjudicating authority.

5. Heard both sides and perused the records.

6. We find that appellant in the present case disputed the computation of demand stating that the cum-tax benefit though requested by them before the authorities below, the same was not extended. From the impugned order, we find that since the

appellant could not place necessary agreement/evidence whereunder, service has been provided to Nagpur Municipal Corporation, the

authorities below could not examine the claim of the appellant relating to cum-tax benefit and consequently rejected the same.

7. Ld. Advocate submits that now they are in possession of the said agreement and requested to remand the matter to the adjudicating authority. In the interest of justice, the matter is remanded to the adjudicating authority to compute the demand afresh taking into consideration the documents/evidence that would be produced by the appellant in support of their claim of cum-tax benefit. Appeal is allowed by way of remand to the adjudicating authority.

(Operative portion of the order pronounced in court)

**(C.J. Mathew)**  
**Member (Technical)**

**(Dr. D.M. Misra)**  
**Member (Judicial)**

SM.