

**Customs, Excise & Service Tax Appellate Tribunal  
West Zonal Bench At Ahmedabad**

REGIONAL BENCH-COURT NO. 3

**Service Tax Appeal No. 11922 of 2014- DB**

(Arising out of OIA-RJT-EXCUS-000-APP-708-13-14 dated 18/02/2014 passed by Commissioner of Central Excise-RAJKOT)

**D K & Company**

C/O, P R Patel, Bhagwati Krupa, Subhash Nagar Main Road,  
Street No. 05, Near Nalanda Road,  
Rajkot, Gujarat

**.....Appellant**

VERSUS

**C.C.E. & S.T.-Rajkot**

Central Excise Bhavan,  
Race Course Ring Road...Income Tax Office,  
Rajkot, Gujarat- 360001

**.....Respondent**

**APPEARANCE:**

Shri, R. Subramanya, Advocate appeared for the Appellant  
Shri Tara Prakash, Deputy Commissioner (AR) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR  
HON'BLE MEMBER (TECHNICAL), MR. C.L.MAHAR**

**Final Order No. 11448/2023**

DATE OF HEARING: 14.06.2023  
DATE OF DECISION: 06.07.2023

**RAMESH NAIR**

The issue involved in the present case is that whether, the "Service of Commercial or Industrial Constriction" provided by the appellant which is meant for SEZ is liable to Service Tax.

2. Shri R. Subramanya, Learned Counsel appearing on behalf of the appellant at the outset submits that the identical issue has been considered by this tribunal in the case of Neo Structo Construction Pvt. Ltd Vs. C.C.E & S.T. Surat-I 2023(2) TMI 289 CESTAT Ahmedabad. He also relied upon the Circular No. 114/08/2009-ST dated 25.05.2009.

3. Shri. Tara Prakash, Learned Deputy Commissioner(AR), appearing on behalf of the revenue and reiterates the finding of the impugned order.

4. On careful consideration of the submission made by both the sides and perusal of records, we find that after passing of the impugned order, much water has flown on the issue and various judgments were delivered subsequently including the judgments cited by the learned Counsel. Therefore, the issue being involved is mixed of facts and question of law, the matter needs to be reconsidered in the light of legal position at present. Therefore, we set aside the impugned order and remand the matter to the adjudicating authority for passing a fresh order.

5. The appellant is at liberty to make a submission along with all the judgments passed subsequent to the passing of the impugned order. The Appeal is allowed by way of remand to Adjudicating authority.

(Pronounced in the open court on 06.07.2023)

**RAMESH NAIR**  
**MEMBER (JUDICIAL)**

**C.L.MAHAR**  
**MEMBER (TECHNICAL)**