

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD**

ST/50972/2014-CU[DB]

(Arising out of Order-in-Original No.13/Commr./LKO/ST/2013-14 dated 06.11.2013 passed by Commissioner, Central Excise & Service Tax, Lucknow.)

M/s. Surat Construction Pvt.Ltd.

...APPELLANT(S)

VERSUS

Commissioner of Central Excise & Service Tax, Lucknow

RESPONDENT (S)

APPEARANCE

Shri Vineet Kumar Singh (Advocate) for the Appellant (s)
Shri Mohd. Altaf (Asstt.Commr.) (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE MEMBER(JUDICIAL)
SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION : 06.12.2018

FINAL ORDER NO.72783/2018

Per Mrs.Archana Wadhwa :

After hearing both sides we find that Service Tax to the tune of Rs.42.97 Lakhs (approx.) stands confirmed against the appellant for the period April, 2006 to March, 2011 under the category of "commercial or industrial construction" and "commercial of residential complex" service.

2. We find that the appellants have taken a categorical stand that a part of the service was in respect of construction of roads on which no Service Tax is payable. It was also contended that the construction was

in respect of a hostel for Hindustan Aeronautics Ltd. as also was office building for U.P. R.N.N. Ltd., school building, construction of Reliance Communication Towers etc. on which no Service Tax was payable except in respect of construction of Reliance Communication Towers on which they have already paid. It was also contended that they are not the main contractor upon whom the contract has been placed, but they were working as sub-contractor.

3. We are of the view that all the above contentions of the appellant are required to be re-examined in the light of various decisions which stand passed by the Tribunal subsequent to passing of the present impugned order. The law on various issues stands declared by the precedent decisions and each and every issue is required to be examined in the light of the same.

4. Accordingly we deem it fit to set aside the impugned order and remand the matter to Commissioner for fresh decision. The appellant is at liberty to contest the demands before the adjudicating authority for which a reasonable opportunity would be afforded to them.

(Dictated and pronounced in the open Court.)

SD/
(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

SD/
(ARCHANA WADHWA)
MEMBER (JUDICIAL)

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