

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL  
REGIONAL BENCH : ALLAHABAD  
COURT No. I**

**APPEAL No. ST/70293/2017-CU[DB]**

(Arising out of Order-in-Original No.08/COMM/ST/GZB/2016-17 dated 09/02/2017 passed by Commissioner of Central Excise & Service Tax, Ghaziabad)

**M/s Nandan Constructions**

**Appellant**

Vs.

**Commissioner of Central Excise  
& Service Tax, Ghaziabad**

**Respondent**

Appearance:

Shri Nishant Mishra (Advocate)  
Shri Sandeep Kumar Singh (Dy. Commr.) AR

for Appellant  
for Respondent

**CORAM:**

**Hon'ble Mrs. Archana Wadhwa, Member (Judicial)**  
**Hon'ble Mr. Anil G. Shakkwar, Member (Technical)**

Date of Hearing : 06/12/2018  
Date of Decision : 06/12/2018

FINAL ORDER NO. - **72790/2018**

**Per: Archana Wadhwa**

After hearing both the sides, we find that the service tax demand stands confirmed against the appellant for the year 2011-15. The same is in respect of two categories i.e. 'Manpower Supply Service' and 'Construction Services'.

2. Learned advocate appearing for the appellant is not disputing the confirmation of demand to the extent of Rs.27,329/- for the year 2011-12. In respect of balance years, he submits that the demand under Manpower Supply System has to be re-quantified inasmuch as in terms of Notification No.30/2012-ST, 25% of service tax has to be paid by the service provider and the balance 75% is required to be paid by the service recipient. The Adjudicating Authority has not extended benefit of the said Notification on the ground that the appellant was not registered with the said services.

3. We note that the appellant was admittedly registered with the Service Tax Department, though under the category of 'Construction Services' and 'Works Contract Service'. After 01/07/2012, a separate registration for each and every activity of services falling under different categories was not required to be taken. Otherwise also, if the law provides the benefit of part payment of service tax by the service provider, the said benefit has to be extended to an assessee at the time of confirmation of service tax. As such, we are of the view that the Adjudicating Authority is required to re-quantify the demand under the said category after extending the

benefit of Notification in question, for which purpose we remand the matter to the Adjudicating Authority.

4. In respect of the 'Construction Services' the grievance of the appellant is that the tax has not been quantified in terms of the provisions of Rule 2A of the Service Tax (Determination of Value) Rules, 2006. Inasmuch as the matter stands remanded for re-quantification of demand under first category, we direct the Adjudicating Authority to examine and deal with the said issue of re-quantification in terms of the said Rule. All others issues are kept open for the appellant to contest the same before Adjudicating Authority.

5. Appeal is thus allowed by way of remand.

(Dictated & Pronounced in Court)

**Sd/-**  
**(Anil G. Shakkarwar)**  
**Member (Technical)**

**Sd/-**  
**(Archana Wadhwa)**  
**Member (Judicial)**

*Lks*