

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

APPEAL No.ST/50838 & 50839/2015-CU[DB]

(Arising out of Order-in-Appeal No. GZB/EXCUS/000/APP/221-222/2014-15 dated 27/11/2014 passed by Commissioner of Central Excise & Customs (Appeals), Noida)

M/s Elegant Infra Developers Pvt. Ltd.,

Appellant

Vs.

Commissioner of Central Excise & S.T., Ghaziabad

Respondent

Appearance:

Absent on call,
Shri Mohammad Altaf, Assistant Commissioner (AR),

for Appellant
for Respondent

CORAM:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

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

FINAL ORDER NO-72903-72904 / 2018

Per: Archana Wadhwa

No body appeared for the appellant. Accordingly, we have gone through the impugned order and have heard learned A.R. As the issue involved in both the appeals is identical, therefore, they are being disposed of by a common order. The appellants are engaged in providing Construction Services and claimed the benefit of abatement to the extent of 67% in terms of Notification No.1/2006-ST dated 01.03.2006, as amended. The said benefit stands denied by the lower

authorities on the ground that the appellants have not been able to produce the evidence to show that the value of cement and fixtures was included in the value of the services. They have concluded that in the absence of any evidence to reflect that the appellant themselves were purchasing the said raw materials, the benefit cannot be extended to them.

2. However, we note that even if the said goods stand provided by the service recipient, free of cost, the value of the same is not required to be added in the assessable value of the services, as held by the Tribunal in the case of *M/s Bhayana Builders (P) Ltd. v. Commissioner of Service Tax, Delhi* reported as 2013 (32) STR 49 (Tri.-LB) and upheld by Hon'ble Supreme Court reported as 2018 (10) G.S.T.L. 118 (S.C.).

Inasmuch as, issue stands decided in favour of the assessee, we find no merit in the revenue's stand. Accordingly, the impugned orders are set aside and both the appeals are allowed with consequential relief.

(Dictated in Court)

(Anil G. Shakkwar)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)