

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

**ST/70159/2015-CU[DB]**

(Arising out of Order-in-Appeal No.NOI/SVTAX/000/APPL-I/137/2015-16 dated 29.07.2015 passed by Commissioner, Central Excise, Appeals-I, Meerut.)

Commissioner of Customs, Central Excise & Service Tax, Noida  
...APPELLANT(S)

VERSUS

M/s.Kasana Builders Pvt.Ltd.

RESPONDENT (S)

APPEARANCE

Shri Mohd. Altaf (Asstt.Commr.)(A.R.) for the Revenue  
Absent on Call for the Respondent

**CORAM:**

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

DATE OF HEARING/DATE OF DECISION : 12.12.2018

FINAL ORDER NO.72950/2018

**Per ANIL G. SHAKKARWAR :**

After hearing Shri Mohd. Altaf, learned Asstt.Commr. (A.R.) for the Revenue and on going through the record, we note that the respondent had constructed 32(thirty two) flats for the staff of Goutam Budh University, Noida which were to be used as staff quarter and initially the contract was given to Greater Noida Industrial Development Authority, which was subsequently completed by the respondent. Treating the said activity as service covered by 'construction of residential complex service' Revenue had raised demand of around Rs.47.46 Lakhs on the respondent. When the matter reached the

learned Commissioner(Appeals) he has taken into consideration the definition of residential complex and further taken into consideration the exclusion clause and held that the said flats were for use as staff quarters by the said university. It qualified to be used for personal use and therefore did not satisfy the definition of 'residential complex service'. The learned Commissioner(Appeals) has dropped the proceedings and set aside the Order-in-Original through which the demand raised was confirmed. Aggrieved by the said order Revenue is before this Tribunal.

2. We note that the grounds raised by Revenue is that the Central Board of Excise & Customs through clarification dated 24.05.2010 had clarified that if NBCC constructed residential houses for Central Govt. then the same were not taxable, but if NBCC further awards a contract to sub-contractors, then sub-contractors were liable to pay Service Tax. On careful consideration of the definition of 'residential complex service' we note that flats constructed for personal use are not covered by the definition of residential complex. We therefore do not find any merit in the appeal filed by Revenue. We therefore do not interfere with the impugned order and reject the appeal filed by the Revenue.

(Operative part of the order was pronounced in the open Court.)

SD/  
**(ARCHANA WADHWA)**  
**MEMBER (JUDICIAL)**

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

sm