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

APPEAL No.ST/70700,71004/2016-CU[DB]
(Arising out of Order-in-Original No.02/Commr./Hapur/2016-17 dated 25/04/2016 passed by Commissioner, Customs, Central Excise & Service Tax, Hapur)

M/s Moradabad Development Authority
(In Appeal No.ST/71004/2016-CU[DB])

M/s Shree Krishna Builders,
(In Appeal No.ST/71004/2016-CU[DB]) **Appellant**

Vs.

Commissioner, Customs, Central Excise & Service Tax, Hapur,

Respondent

<u>Appearance:</u>
Request for Adjournment
(In Appeal No.ST/71004/2016-CU[DB])

Shri Mohammad Khalid (Adv.)
(In Appeal No.ST/70700/2016-CU[DB]) for Appellant

Shri Mohd. Altaf, Assistant Commissioner (AR), for Respondent

<u>CORAM:</u>
Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing/ Decision : 20/02/2019

FINAL ORDER NO. **70366-70367 / 2019**

Per: Archana Wadhwa

Both the appeals are being disposed of by a common order as they arise out of the same impugned order.

2. It is argued that the service tax stand confirmed under the category of 'Construction of Residential Complex'. Learned advocate submits that the said construction activity was being taken for the economically

weak section under the category of 'Manyavar Shri Kanshi Ram Ji Sahari Garib Awas Yojna' by the state of Uttar Pradesh. The Tribunal in a number of decisions has held that the said activity of construction under the said Yojna is not taxable. Reference can be made to Tribunal's decision in the case of Commissioner of Customs, Central Excise & Service Tax, Allahabad V/s Ganesh Yadav reported at 2017 (6) G.S.T.L. 428 (Tri.-All.).

3. We find that number of contracts are the subject matter of dispute and each and every contract is required to be examined and verified. As such we are of the view that the same needs fresh consideration by the Original Adjudicating Authority in the light of the law laid down by the Tribunal. Accordingly, we set aside the impugned orders and remand both the appeals to the Original Adjudicating Authority for de-novo adjudication in the light of the observations made as above.

(Pronounced & Dictated in Court)

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

Sd/-
(Archana Wadhwa)
Member (Judicial)

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