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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 16/05/2017

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. ST/A/70472/2017-CU[DB] dated 08/05/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	ST/699/2010	**GLF BUILDERS PVT. LTD.** A-83, Patel Nagar-II, Ghaziabad.
		Name and Address of Respondent
2		-C.C.E. GHAZIABAD C.G. O. Complex-II, Kamla Nehru Nagar, Ghaziabad 201302

Copy To
3Advocate(s) / Consultant(s):

R. Krishnan
297-E, Pocket-II, Phase-I,
Mayur Vihar,
Delhi
110091

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise, I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

14 C.D.R. 15 Office Copy 16 ~~Guard~~ File

Asstt. Registrar

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

APPEAL No. ST/699/2010-CU[DB]

(Arising out of Order-in-Original No.01/COMMR./GZB/2010 dated 26/02/2010 passed by Commissioner of Central Excise, Service Tax & Customs, Gaziabad)

GLF Builders Private Limited **Appellant**

Vs.

Commissioner of Central Excise, Gaziabad **Respondent**

Appearance:

Shri R. Krishnan for Appellant
Shri Rajeev Ranjan JR (AR) for Respondent

CORAM:

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

Date of Hearing : 08/05/2017
Date of Decision : 08/05/2017

FINAL ORDER NO. 70472/2017.........

Per: Anil Choudhary

The issue in this appeal by the appellant-assessee builder is whether for construction of 124 dwelling units/duplex houses for the Air Force Naval Housing Board whether service tax is rightly demanded under the classification 'construction of complex' under Clause 30 (A) of Section 65 of the Finance Act, 1994, for the period from April 2006 to March 2007.

Ar

2. The learned counsel for the appellant-assessee has urged that it is admitted fact from the Order-in-Original that the appellant has constructed individual houses and not a complex as defined, means a building or block having 12 or more residential units or flats, having common facilities of water, electricity, etc. The appellant has undertaken work on composite basis including procurement of land, construction of dwelling units/individual duplex houses and to provide for common facilities in the said residential complex. Learned counsel further urges that it is not classifiable under 'construction of complex service' rather more appropriate classification is as 'works contract' as clarified by Hon'ble Supreme Court in CCE v/s Larsen & Toubro Limited being order dated 20 August, 2015 reported at 2015 39 STR 913.

3. Learned AR has relied on the impugned order.

4. Having considered the rival contentions we find that there is no allegation that the appellant had constructed any single block or building having 12 or more residential units or flats. Under such circumstances, we find that the activity done by the appellant is not classifiable under 'construction of complex' as defined under Clause 30 (A) of Section 65 of the Finance Act, 1994. The appellant have admittedly paid VAT/Sales Tax on the said activity, as works contract. In this view of the matter, we find that the show cause notice is not sustainable. Accordingly, we allow the appeal and set aside

the impugned order. The appellant shall be entitled to consequential benefits in accordance with law.

(Dictated and pronounced in Court)

-Sd/-
(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

-Sd/-
(ANIL CHOUDHARY)
Member(JUDICIAL)

Ankit