

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 2

Application(s) Involved:

Service Tax Appeal No. 1126 of 2010

[Arising out of Order-in-Appeal No. 121/2010 dated 08.03.2010 passed by the
Commissioner of Central Excise (Appeals) Mangalore]

Sudheer Kumar

PWD Contractor
Kundapur Taluk, Koteshwara
Udupi Dist. - 576 222

Appellant(s)

VERSUS

**Commissioner of Central Excise and
Service Tax, Mangalore**

7th Floor, Trade Centre
Bunts Hostel Road
Mangalore - 575 003

Respondent

APPEARANCE:

Mr. S.V. Subramanyam, Advocate for the Appellant
Mr. Neeraj Kumar, AR for the Respondent

Coram:

Hon'ble Mr. P.A. Augustian, Member (Judicial)

Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)

Final Order No.: 21521 / 2023

Date of Hearing: 20.12.2023

Date of Decision: 20.12.2023

Per : P.A. Augustian

The issue involved in the present appeal is regarding demand of service tax under the category of 'Commercial or Industrial Construction Services'. Learned counsel appearing for the appellant submits that the appellant could not make appropriate registration with the department regarding the

said service. It was a comprehensive contract and learned counsel further submits the issue pertains to the period of 2005 and issue is covered by the judgment of the Hon'ble Supreme Court in the matter of *Commissioner, Central Excise and Customs, Kerala Vs. Larsen & Toubro Ltd. - (2016) 1 SCC 170*. The learned counsel further draws our attention to the letter No. 14011/99-2000/UD-1 dated 16.03.2000 issued by Government of India, Ministry of Urban Development, New Delhi that the works carried out by them relates to the Municipal Administration and they are not liable to pay service tax at the relevant time.

2. On perusal of the records and considering the findings of the lower authorities and the law laid down by Apex Court in the matter of Larsen & Toubro (supra), we find that it is a fit case to be remanded to the original authority for deciding the issue afresh. The appellant is directed to produce the copy of the contract entered by the appellant with the local authority and the adjudication authority shall decide the matter within 6 months from the receipt of the order after giving reasonable opportunity of personal hearing to the appellant. Appeal disposed accordingly.

(Dictated and pronounced in open court)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

