CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>BANGALORE</u>

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 2788 of 2012

(Arising out of Order-in-Appeal No.289/2012 dated 11.07.2012 passed by the Commissioner of Central Excise (Appeals), Mangalore.)

M/s. Constrengin Corporation
5014/14, Padil – Maroli Road,
Padil,
Mangalore – 575 007.

Appellant(s)

VERSUS

The Commissioner of Central Excise
V Floor, Trade Centre,
Bunts Hostel Road,
Mangalore – 575 003.

Respondent(s)

<u>APPEARANCE:</u>

Mr. Anil Kumar. B, Advocate for the Appellant.

Ms. Money Jain, Joint Commissioner (Authorised Representative) for the Respondent.

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

<u>Final Order No. 20796 / 2025</u>

DATE OF HEARING: 30.05.2025
DATE OF DECISION: 30.05.2025

PER : R. BHAGYA DEVI

This appeal is filed by the appellant M/s. Constrengin Corporation, Mangalore against Order-in-Appeal No. 289/2012 dated 11.07.2012 passed by Commissioner of Central Excise (Appeals), Mangalore.

2. Briefly the facts of the case are that the appellant is into construction of petrol bunks for most of the oil companies and show-cause notice was issued demanding service tax alleging

that the services rendered by the appellant was under the category of 'Commercial or Industrial Construction Services', though the appellant claimed that their services were under 'works contract service' which was introduced only with effect from 01.06.2007, the same was rejected and demands were confirmed under 'Commercial or Industrial Construction Services' invoking the extended period of limitation. Aggrieved by this order, the appellant is in appeal before us.

3. The Learned Counsel on behalf of the appellant submitted that their activities fall under 'works contract service' and registered under the Karnataka VAT Authorities and therefore, for the period prior to 01.06.2007 they were not liable to pay service tax as 'works contract service' was introduced only with effect from 01.06.2007. It is also further submitted that the issue stands settled in favour of the appellant in terms of the various Supreme Court decisions in the case of **CCE & Cus. Kerala vs. Larsen & Toubro Ltd.: 2015 (39) STR 913 (S.C.)** and in the case of **Total Environment Building Systems Pvt. Ltd. vs. DCCT: 2022 (63) GSTL 257 (S.C.)**.

4. The Authorised Representative on behalf of the Revenue reiterated the findings of the Commissioner in the impugned order.

5. Heard both sides. The period in dispute is from 10.09.2004 to 31.03.2007 and the issue is whether the appellant is liable to pay service tax during the relevant period when they are registered under 'works contract service'. This issue stands settled in favour of the appellant as per the various decisions of the Supreme Court in the case of CCE & Cus. Kerala vs. Larsen & Toubro Ltd. (supra) and Total Environment Building Systems Pvt. Ltd. vs. DCCT (supra) wherein the Hon'ble Supreme Court had categorically held that the liability to pay service tax on the 'works contract service' is only w.e.f. 01.06.2007. In the instant case, the appellant had always claimed that they fall under the 'works contract service' registered with the Karnataka VAT

Authorities and therefore, the liability to pay service tax for the relevant period does not arise.

6. In view of the above, the impugned order is set aside and Appeal is allowed with consequential relief, if any, as per law.

(Operative portion of the order was pronounced in Open Court on conclusion of hearing.)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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