

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

**REGIONAL BENCH - COURT NO. 1**

**Service Tax Appeal No.21504 of 2015**

(Arising out of Order-in-Appeal No.TVM-EXCUS-000-APP-243-14-15 dated 24.03.2015 passed by the Commissioner of Central Excise, Customs & Service Tax (Appeals-III), Cochin.)

**Mr. I. Safruddin,**

Kallelil Padittethil,  
Padinjattin Kara P.O,  
Thevalakkara,  
Kollam, Kerala.

**Appellant(s)**

***VERSUS***

**Commissioner of Central Tax  
and Central Excise, Cochin**

C.R. Buildings, I.S. Press Road,  
Cochin, Kerala-682 018.

**Respondent(s)**

**APPEARANCE:**

Mr. P. Satheesan, Advocate for the Appellant.

Mr. Vikalp Jain, Superintendent (AR) for the Respondent.

**CORAM: HON'BLE MR. D.M. MISRA, MEMBER (JUDICIAL)  
HON'BLE MRS. R. BHAGYA DEVI, MEMBER  
(TECHNICAL)**

**Final Order No. 21951 / 2025**

**DATE OF HEARING: 02.12.2025**

**DATE OF DECISION: 02.12.2025**

**PER : D. M. MISRA**

Heard both sides.

2. This is an appeal filed by the appellant against Order-in-Appeal No.TVM-EXCUS-000-APP-243-14-15 dated 24.03.2015 passed by the Commissioner of Central Excise (Appeals).

3. Briefly stated the facts of the case are that the appellant during the relevant period provided commercial construction and works contract service to KMML Chavara and received labour charges for providing such services and not paid service tax on the gross amount being less than the threshold limit of SSI exemption. A show-cause notice was issued to the appellant alleging that they have not included the value of free issue materials such as cement, steel, paint, etc., in providing the construction service, hence, short-payment of service tax of Rs.4,27,509/- for the period from 01.05.2006 to 31.03.2011 proposed to be recovered with interest and penalty. On adjudication, demand was confirmed with interest and penalty. Aggrieved by the said order, they filed an appeal before the Commissioner (A), who upheld the order of the original authority. Hence, the present appeal.

4. At the outset, the learned advocate for the appellant submits that in the event the value of free issue materials are not added in the labour charges, the aggregate value of clearances of service was well within the threshold limit of prescribed under Notification No.6/2005-ST dated 01.03.2005-ST. He submits that the value of materials supplied cannot be added to the value of the labour/service provided by them in view of the judgment of the Tribunal by Larger Bench in the case of **Bhayana Builders (P) Ltd. vs. CCE, New Delhi: 2013 (32) S.T.R. 49 (Tri.-LB)** which has been latter upheld by the Hon'ble Supreme Court as reported in **2018 (10) GSTL 118 (SC)**.

5. We find that the issue of levy of service tax on free issue materials in providing taxable service is squarely covered by the judgment of the Hon'ble Larger Bench in the case of **Bhayana**

**Builders (P) Ltd.** (supra), which has been later upheld by the Hon'ble Supreme Court. Applying the said ratio to the present case, we do not find any merit in the impugned order and the same is set aside and the appeal is allowed with consequential relief, if any as per law.

(Dictated and pronounced in Open Court.)

**(D. M. MISRA)**  
**MEMBER (JUDICIAL)**

**(R. BHAGYA DEVI)**  
**MEMBER (TECHNICAL)**

RV