

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

REGIONAL BENCH - COURT NO. 2

**Service Tax Appeal No.21024 of 2017**

(Arising out of Order-in-Appeal No.COC-EXCUS-000-APP-163-16-17  
dated 30.09.2016 passed by the Commissioner of Central Excise,  
Customs and Service Tax (Appeals-I), Cochin)

**M/s. Dew Homes**

Meputrath Square Near Market NH47,  
Alwaye - 683 101.  
Kerala.

Appellant(s)

*VERSUS*

**Commissioner of Central Excise  
Customs and Service Tax**

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

Respondent(s)

**APPEARANCE:**

Mr. P. Raghunathan, Consultant for the Appellant.

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

**CORAM:**

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

**FINAL ORDER NO. 21980 / 2025**

DATE OF HEARING: 21.11.2025

DATE OF DECISION: 21.11.2025

**PER: R. BHAGYA DEVI**

Briefly the facts are that the appellant M/s. Dew Homes are registered under the category of Construction of Residential Complex; Commercial or Industrial Building Construction and Works Contract service all under Section 65(105) of the Finance Act, 1994. During the disputed period from January 2009 to June

2010 show-cause notice was issued demanding service tax, the same was dropped by the original authority on the ground that the Circular No.108/02/2009-ST dated 29.01.2009 and Circular No.151/2/2012-ST dated 10.02.2012 had clarified that the above construction activities undertaken by the appellant are not liable for levy of service tax. However, on appeal filed by the Department, the Commissioner (Appeals) confirmed the demand stating that the circulars were not applicable to the services rendered by the appellant. Hence, this appeal.

2. The Learned Consultant at the outset submits that the notice dated 19.06.2012 for the period January 2009 to June 2010 is beyond the normal period of limitation and the ST-3 returns were filed based on the circulars referred above, therefore, invocation of suppression does not arise. Further, it is submitted that the circulars clearly held that the services rendered by the appellant are not liable to pay service tax.

3. The Learned Authorised Representative (AR) for the Revenue reiterated the findings of the learned Commissioner (Appeals).

4. Heard both sides. We find that the original authority has given a clear finding that the appellant is not liable to pay service tax in view of the above Circular No.108/02/2009-ST dated 29.01.2009 and Circular No.151/2/2012-ST dated 10.02.2012. The Commissioner (Appeals) in the impugned order observing that the services provided by the appellant is composite in nature is taxable after 01.06.2007 onwards in view of the decision of the Hon'ble Supreme Court in the case of **CCE vs. Larsen & Touro** reported in **2015 (39) STR 913 (SC)** confirmed the demand without giving any findings on the applicability of the above circulars to the present set of facts.

5. In view of the above clarifications by the Board the demand cannot be sustained during the relevant period. Therefore, the impugned order cannot be sustained and the same is set aside.

Appeal is allowed.

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

**(P.A. AUGUSTIAN)**  
**MEMBER (JUDICIAL)**

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

rv