CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 950 of 2009

(Arising out of Order-in-Appeal No. 335/2009 dated 07/09/2009 passed by the Commissioner of Central Excise, Mangalore)

M/s NIRMAAN ASSOCIATES
C-6, CITY GATE, KADRI,
MANGALORE-575003

Appellant(s)

VERSUS

Commissioner of Central Excise and Service Tax MANGALORE
7TH FLOOR...TRADE CENTRE,
BUNTS HOSTEL RD.,
MANGALORE, - 575003
KARNATAKA

Respondent(s)

Appearance:

Mr. Rajesh Kumar, CA
HIRAGANGE & ASSOCIATES
#1010, 1st floor(Above Corp.Bank) 26th Main, 4th T Block, Jayanagar,
BANGALORE - 560041
KARNATAKA

For the Appellant

Mr. P.Gopakumar, Joint Commissioner (AR)

For the Respondent

CORAM:
HON'BLE MR. ANIL CHOUDHARY, JUDICIAL MEMBER
HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Final Order No. 20195 / 2020

Date of Hearing: 17/02/2020
Date of Decision: 17/02/2020

PER : ANIL CHOUDHARY

Heard the parties.

2. The issue involved in this appeal is of classification of service. It is an admitted fact as per Para 8.2 of the Order-in-Original, that it is composite contract for construction of petrol bunks, wherein amount charged by the appellant includes material cost i.e. cost of cement, steel, fittings, fixtures, tiles, etc.

3. Learned Authorized Representative for the Revenue relied upon the impugned order.

4. Considering the rival submission and on perusal of the impugned order, we rely on the decision of Hon'ble Supreme Court in the case of *CCE Vs Larsen & Toubro Ltd., 2015 (39) STR 913 (SC,* wherein in the case of composite contract it can be classified only under 'Works Contract Service' and no tax can be levied under the other Heads of service like 'construction of commercial complex', 'Civil and Industrial construction service' etc.

5. Accordingly, the appeal is allowed and the impugned order against the appellant stands set aside.

(Dictated and pronounced in open court)

(ANIL CHOUDHARY)
JUDICIAL MEMBER

(P. ANJANI KUMAR)
TECHNICAL MEMBER

PK...