Customs, Excise & Service Tax Appellate Tribunal
SCO 147-148, SECTOR-17-C, CHANDIGARH-160017
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Appeal No. ST/41/2009

[Arising out of OIA-326/CE/LDH/2008 dated 30.09.2008 passed by the Commissioner (Appeals) of Central Excise and Service Tax-LUDHIANA]

CCE & ST- Ludhiana : Appellant (s)

Vs

M/s Mittal Construction Co : Respondent (s)

Represented by:
For Appellant (s) : Shri M. S. Dhindsa, AR
For Respondent (s): Shri N. Bindal, Advocate

CORAM :
Mr. Ashok Jindal, Hon'ble Member (Judicial)
Mr. Bijay Kumar,, Hon'ble Member (Technical)

Date of Hearing/Decision: 04.12.2018

ORDER No. A/63549 / 2018

Per : Mr. Ashok Jindal

This appeal is taken up in terms of the miscellaneous order No. 60035/2018 dated 11.01.2018 wherein this Tribunal after observing the findings of the Interim Order No. 27/2017 dated 16.10.2017 passed by this Tribunal and observed as under:-

> "4. To impart the justice, the said argument is required to be answered by this Tribunal. As no finding has been given by this Tribunal on the said argument, therefore, the said issue is required to be answered by this Tribunal. In that circumstance, we recall our order dated 16.10.2017 to that extent to answer the argument of the Ld.Counsel recorded in para 4 of the order i.e. "The Revenue has not challenged the findings in the impugned order of the Commissioner (Appeals) that their activity is not preparatory in nature for construction of building and other contractors, the appeal is to be dismissed."

and matter was listed for re-hearing only to consider the said observation of this Tribunal and miscellaneous order.
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2. Today, when the matter was called it was specifically asked the answer of the query whether the revenue has challenged the finding of the impugned order of the Ld. Commissioner (A) that the activity is not preparatory in nature for construction of building and other contractors or not? The Ld. AR admitted that the said part of the impugned has not been challenged before this Tribunal. In that circumstances, we hold that the appeal filed by the Revenue is not on merit, accordingly, the same is dismissed.

(Dictated & pronounced in the Court)

(Bijay Kumar)
Member (Technical)

(Ashok Jindal)
Member (Judicial)

G.Y.