

**IN THE CUSTOMS, EXCISE AND SERVICE TAX  
APPELLATE TRIBUNAL  
SOUTH ZONAL BENCH AT CHENNAI**

**Appeal No. ST/00095/2011**

(Arising out of Order-in-Appeal No. 191/2010 (M-ST) dated 08.11.2010  
passed by the Commissioner (Appeals), Chennai)

M/s. Prabhakar & Co. : Appellant

Vs.

The Commissioner of Service Tax, Chennai : Respondent

Appearance:-

Ms. Radhika Chandrasekhar, Advocate  
for the Appellant

Shri K. P. Muralidharan, AC (AR)  
for the Respondent

**CORAM:**

**Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)**  
**Hon'ble Shri P Dinesha, Member (Judicial)**

Date of Hearing/Decision: 20.06.2018

Final Order No. 41848 / 2018

**Per Shri Madhu Mohan Damodhar,**

After hearing both sides, we note that the issue in question relates to non-payment of service tax liability by the appellants, who were labour contractors. The impugned order has upheld the

confirmation of tax liability amounting to Rs. 14,68,849/- with interest and penalties under Section 77 and 78 of the Act.

2. The learned Advocate submits that they were only a sub contractor to M/s. S.A.S. Realtors (P) Ltd., and that the latter had discharged the service tax liability in full. We find that this claim has been echoed by the lower appellate authority in page 5 of the impugned order. However, as no evidence has been produced by the appellants to prove the same, the said argument was not accepted and the appeal rejected. The Ld. Advocate submits that they have subsequently obtained necessary certificates and documents evidencing the discharge of tax liability by the principal contractor. The Ld. Advocate requests that the matter may be remanded for de novo consideration to enable them to produce the same before the adjudicating authority.

3. The Ld. AR has no objection.

4. The matter is, therefore, allowed by way of remand with the specific directions to the appellant to produce the necessary evidence

of discharge of tax liability by the principal contractor to the satisfaction of the adjudicating authority.

5. The appeal is allowed by way of remand.

(Dictated and pronounced in open Court)

**(P Dinesha)**  
Member ( Judicial)

**(Madhu Mohan Damodhar)**  
Member (Technical)

Sdd