IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH AT CHENNAI
[COURT III : Division Bench B1]

Appeal Nos.: ST/312 & 313/2012

[Arising out of Orders-in-Appeal No. 33 & 34/2012 (M-ST) dated 16.02.2012 passed by the Commissioner of Central Excise (Appeals), Chennai]

M/s. MPL Parts and Services Pvt. Ltd., **: Appellant**
No. 20, Thanikachalam Road, T. Nagar,
Chennai – 600 017

Versus

The Commissioner of G.S.T. & Central Excise, **: Respondent**
Chennai South Commissionerate

Appearance:-
Shri. D. S. Vipula, Advocate
for the Appellant

Shri. S. Govindarajan, AC (AR)
for the Respondent

CORAM:
Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing/Decision: 18.01.2019

Final Order Nos. 40128-40129 / 2019

Per Bench :

After hearing both sides, it is seen that the issue is whether the value of the cost of fuel supplied free of cost by the service recipient would be included in the taxable value for discharging the service tax under the category of Site Preparation or Formation Services.

2. The very same issue in the appellant's own case has been analyzed and held in their favour in Appeal No. ST/00527/2011 vide ***Final Order No. 42379/2018 dated 28.08.2018*** wherein the Tribunal relied upon the decision of the Hon'ble Supreme Court in the case of ***Commissioner of Service Tax Vs. M/s. Bhayana Builders Pvt. Ltd. reported in 2018 (10) G.S.T.L. 118***. Following the same, we are of the view that the demand cannot sustain. The impugned Order is set aside.

3. The appeals are allowed with consequential reliefs, if any, as per law.

(Dictated and pronounced in open court)

(Madhu Mohan Damodhar)	**(Sulekha Beevi C.S.)**
Member (Technical)	Member (Judicial)

Sdd