IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

ST/591/2009

(Arising out of Order-in-Appeal No.48/2009 (M-ST) dated 31.8.2009 passed by the Commissioner of Central Excise (Appeals), Chennai)

M/s. Ceebros Developers Appellant

Vs.

Commissioner of Service Tax, Chennai Respondent

Appearance

Shri S. Ramachandran, Consultant 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: **09.08.2017**

Final Order No. 41552/2017

Per Bench

The issue involved in the above case is demand of service tax on the corpus fund collected by the appellants from their customers. According to the appellant, such corpus fund is not used for the construction service and was handed over to the apartment owners' association. It is also submitted that the period involved is prior to 1.6.2007 and therefore the works contract services prior to this period would not be subject to levy of service tax.

2. The learned AR Shri S. Govindarajan reiterated the findings in the impugned order.

3. Heard both sides.

4. On hearing the submissions made by both sides as well as on perusal of records, we find that the department has alleged that the amount collected by the appellant as corpus fund was used in the construction of service of apartment and therefore the appellant is liable to discharge service tax under the category of Commercial or Industrial Construction Service. The learned consultant Shri S. Ramachandran appearing for the appellant has produced a copy of the Minutes of the General Body Meeting of the Association wherein it is seen that the corpus fund has been handed over to the association. Nonetheless, the period is prior to 1.6.2007 and works contract services are not subject to levy of service tax has been decided by the Hon'ble Supreme Court in the case of Larsen and Toubro Vs. CCE, Kerala – 2015 (39) STR 913 (SC).

5. Following the same, we hold that the demand is unsustainable. The impugned order is set aside and the appeal is allowed with consequential relief, if any.

(Operative portion of the order was pronounced in open court)

Sulekha Beevi

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

Rex