

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

ST/160/2010

(Arising out of Order-in-Appeal No.148/2009 dated 30.9.2009 passed by the Commissioner of Central Excise (Appeals), Trichy)

M/s. Sri Balaji Builders

Appellant

Vs.

Commissioner of Central Excise, Trichy

Respondent

Appearance

Ms. Sivaranjani, Advocate for the Appellant

Shri A. Cletus, Addl. Commissioner (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: **24.10.2017**

Final Order No. 42433/2017

Per Bench

The appellant is engaged in rendering service under the category of Commercial or Industrial Construction Service. The period involved in from September 2005 to March 2007.

2. At the time of hearing, the learned Advocate Ms. Sivaranjani submitted that the issue being a works contract whether subject to service tax prior to 1.6.2007 has been settled by the judgment of the Hon'ble Supreme Court in the case of Commissioner Vs. Larsen & Toubro Ltd. – 2015 (39)



STR 390 (SC). It is also brought out by her that in the case of CCL Products (India) Ltd. Vs. Commissioner of Central Excise, Guntur – 2017 (48) STR 50 (Tri. – Hyd.), the coordinate Bench in a similar matter had set aside the demand relying upon the judgment of the Hon'ble Supreme Court on identical set of facts.

3. The learned AR Shri A. Cletus reiterated the findings in the impugned order.

4. We have heard the submissions made by both sides. Undisputedly, the period involved is prior to 1.6.2007 and the issue whether composite contracts namely, Erection and Commissioning or Installation Services or Works Contract Service prior to 1.6.2007 is liable to service tax has been settled by the Hon'ble Supreme Court in the case of Larsen & Toubro Ltd. (supra) in favour of the assessee. 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)



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



(**SULEKHA BEEVI C.S.**)
Member (Judicial)

Rex



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