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

Application No.C/MISC/40954/2016
Appeal No.C/41842/2016

[Arising out of Order-in-Appeal C.Cus.No.714/2015 dt. 30.8.2015 passed by the Commissioner of Central Excise (Appeals-II), Chennai]

Commissioner of Customs,
Chennai-II — Appellant

Versus

PNC Infratech Ltd. — Respondent

Appearance:

Shri R. Subramaniyan, AC (AR)
For the Appellant

Dr. S. Krishnanandh, Advocate
For the Respondent

CORAM:

Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Madhu Mohan Damodhar, Technical Member

Date of hearing / decision : 02.01.2017

FINAL ORDER No. 40001/2017

Per D.N. PANDA

Explaining the background of the case, learned counsel says that self-same issue was before two different Benches and due to difference of opinion that went to Larger Bench. The Larger Bench opined against the assessee. Ultimately, the said decision is under appeal before the Apex Court as reported in 2015 (319) ELT A236 (SC).

2. In view of the above, it is the submission of respondent that ultimately the decision of Apex Court may have bearing on the present case.

3. Keeping the above in view, Revenue's appeal is remanded to the learned adjudicating authority to re-adjudicate the matter on the basis of outcome of the Apex Court judgement in the case of *Ashoka Buildcon Ltd. Vs Commissioner* - 2015 (319) ELT A236 (SC).

4. In view of the above position, MA stated to have been infructuous by learned counsel due to clearance of the goods, that is dismissed.

(Dictated and pronounced in open court)

04/01/2017 4-1-2017

(MADHU MOHAN DAMODHAR)
TECHNICAL MEMBER

(D.N.PANDA)
JUDICIAL MEMBER

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Customs, Excise & Service Tax Appellate Tribunal

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चेन्नै/Chennai