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

Appeal No. ST/478/2011

(Arising out of Order-in-Appeal No.100/2011 dated 18.5.2011 passed by the Commissioner of Customs, Central Excise and Service Tax (Appeals), Coimbatore)

M/s. G. Ramamoorthi Constructions (I) Pvt. Ltd. Appellant

Vs.

Commissioner of Central Excise, Coimbatore Respondent

Appearance

Ms. Sridevi, Advocate for the Appellant
Shri P. Arul, AC (AR) for the Respondent

CORAM

Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)

Date of Hearing / Decision: **22.12.2017**

Final Order No. 43434/2017

Per B. Ravichandran

The only dispute in the present appeal is regarding valuation of taxable services provided by the appellant. The appellants are engaged in construction activities and were registered for payment of service tax. They were availing abatement in terms of Notification No. 1/2006 dated 1.3.2006. Revenue objected to the abatement on the ground that they are not including the value of free supply materials received from the recipient of service which is used in provision of services.

Customs, Excise & Service Tax Appellate Tribunal

2. Heard both sides and perused the records.

3. The Tribunal in the case of Bhayana Builders (P) Ltd. Vs. Commissioner of Service Tax, Delhi – 2013 (32) STR 49 (Tri. – LB) examined an identical situation under Notification No. 4/2005-ST. It was held that the value of free supplies by the service recipient do not comprise as gross amount charged by the service provider and the Explanation under Notification 15/2004 as introduced by Notification No.4/2005 has no implication for such supplies. We note the Explanation under Notification No.1/2006 is similarly worded and as such the ratio of the Larger Bench decision will be rightly applicable to the present case also.

4. In view of the above, we find that the impugned order is without merit and the same is set aside and the appeal is allowed.

(Dictated and pronounced in open court)

22/8/17

(B. RAVICHANDRAN)	**(ARCHANA WADHWA)**
Member (Technical)	Member (Judicial)

Rex

Customs, Excise & Service Tax Appellate Tribunal

प्रमाणित प्रति/Certified True Copy

G. S. Ramesh

26/02/18

सहायक पंजीकार/Asst. Registrar
सीमाशुल्क उत्पादशुल्क एवं सेवा कर
अपील अधिकारी/(CESTAT)
चेन्नै/CHENNAI