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

ST/00577, 00578/2010

[arising out of Orders-in-Appeal No.172-173/2010, dated 28.05.2010 passed by the Commissioner of Central Excise (Appeals), Madurai]

M/s. RAJI WORKS — APPELLANT/S
M/s. SARATHA WORKS

Versus

COMMISSIONER OF CENTRAL EXCISE, MADURAI — RESPONDENT

Appearance:

For the Appellant — Shri Arun Kurien Joseph, Adv.
For the Respondent — Shri Arul C. Durairaj, Supdt.

CORAM:

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

Date of hearing/decision **19-12-2017**

FINAL ORDER NO. 43478-43479/2017

Per Archana Wadhwa:

Both the appeals are being disposed of by a common order as they arise out of the same impugned order passed by the authorities below.

2. After hearing both sides, we find that the short issue involved is as to whether the proprietary concerns are liable to pay service tax in respect of "Man-power Supply Services" during the period prior to 01.05.2006. It stands contended before us that prior to the said date, the definition of "Man-power Recruitment or Supply Agency Services" cover the services being provided by "Commercial

Concern" only. However, with effect from 01.05.2006, the expression "Commercial Concern" was substituted by **"any person"**.

3. We find that the Tribunal in the case of *M/s. Ashok Kumar Pathak Vs Commissioner of Central Excise, Indore* reported in *2017 (3) G.S.T.L. 452 (Tri.-Del.)* has dealt with an identical issue and has held that the services provided by the individual prior to 01.05.2006 would not be taxable. For the period subsequent to 01.05.2006, learned Advocate fairly agrees that they are liable to pay service tax, which already stands paid by them.

4. In view of the foregoing, we set aside the demand pertaining to the period prior to 01.05.2006. However, inasmuch as, the ~~Tribunal made~~ issue was a bonafide interpretation of legal provisions, we also set aside penalty in toto. Appeals are disposed of in the above terms.

(Dictated and pronounced in open court)

23.1.18

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

ksr
23-01-2018

Customs, Excise & Service Tax Appellate Tribunal
सत्यमेव जयते

प्रमाणित प्रति / Certified True Copy
02/03/18
सहायक पंजीकार / Asst. Registrar
सीमाशुल्क उत्पादशुल्क एवं सेवा कर
अपील अधिकारी / (CESTAT)
चेन्नै / CHENNAI