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

ST/254/2007

(Arising out of Order-in-Original No. 9/2007 (ST) dated 03.08.2007 passed by the Commissioner of Central Excise Trichy).

M/s. N S K Builders : Appellant

Vs.

CCE & ST, Trichy : Respondent

Appearance

Shri S. Viswanathan, Adv.,
For the appellant

Shri L. Paneerselvam, AC (AR),
For the respondent

CORAM

Hon'ble Shri D.N.PANDA, Judicial Member

Hon'ble Shri MADHU MOHAN DAMODHAR, Technical Member

Date of Hearing/Decision: 07.02.2017

FINAL ORDER No. 40185 /2017

Per: D.N.Panda,

There is no dispute on record that the service tax was collected by the appellant and discharged. Appellant prays for immunity from interest and penalty. There is no provision in law to entertain the prayer for immunity from interest, which is outcome of tax demand not discharged. Therefore, interest is payable for the period of default.

2. In so far as the penalty is concerned, it is an agreed proposition by both sides that levy of service tax on "Works contract" was in debatable stage till that reached to the Apex Court for conclusion in the case of *COMMISSIONER OF C. EX. & CUS., KERALA Vs. LARSEN & TOUBRO LTD.*- 2015 (39) STR 913 (S.C.). Considering this aspect, there shall be no penalty payable under Section 76 & 78 of the Finance Act, 1994. So far as penalty under Section 77 of the Act is concerned that is sustained.

3. In the result, appeal is allowed partly only to the extent indicated above.

(Dictated and pronounced in open Court)

09/02/2017 — 8/2/2017

(MADHU MOHAN DAMODHAR)
TECHNICAL MEMBER

(D.N. PANDA)
JUDICIAL MEMBER

BB

Customs, Excise & Service Tax Appellate Tribunal

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अपील अधिकरण/(CESTAT)
चेन्नै/Chennai