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

ST/239/2009

(Arising out of Order-in-Appeal No. 6/2009-ST dated 28.1.2009 passed by the Commissioner of Central Excise (Appeals), Coimbatore)

M/s. Keeran Builders Pvt. Ltd. Appellant

Vs.

Commissioner of Central Excise, Coimbatore Respondent

Appearance

Shri G. Natarajan, Advocate for the Appellant
Shri K. Veerabhadra Reddy, JC (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)

Date of Hearing / Decision: **06.09.2017**

Final Order No. 41976/2017

Per Ms. Sulekha Beevi, C.S.

The appellants are engaged in providing construction of residential complex service and were not registered with the Service Tax Department during the period of dispute (November 2005 to December 2006) and subsequently registered on 31.1.2007. On specific intelligence, it was noticed that the appellant was not discharging the service tax liability and therefore show cause notice dated 7.9.2007 was issued demanding service tax along with interest and also for imposing penalties. After due process of law, the adjudicating authority confirmed the demand along with interest and also imposed penalties under sections 76, 77 and 78 of the Finance Act, 1994. On appeal, the Commissioner (Appeals) upheld the same. Hence this appeal.

2. After hearing both sides we find that the period involved in the case is from November 2005 to December 2006. 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). We also note that the coordinate Bench in the case of CCL Products (India) Ltd. Vs. Commissioner of Central Excise, Guntur – 2017 (48) STR 50 (Tri. – Hyd.), 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. 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)

(B. RAVICHANDRAN)
Member (Technical)

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

Rex

Customs, Excise & Service Tax Appellate Tribunal

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