CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. III

Service Tax Appeal No. 41085 of 2016

(Arising out of Order-in-Appeal No. 77/2016 dated 01.04.2016 passed by Commissioner of Service Tax (Appeals-I), No. 6/7, A.T.D. Street, Race Course Road, Coimbatore – 641 018)

M/s. Springfield Shelters Pvt. Ltd. **...Appellant**
No. 101, Ranga Vilas,
New Damu Nagar,
Coimbatore – 641 037.

Versus

Commissioner of GST and Central Excise **...Respondent**
Coimbatore Commissioner,
No. 6/7, A.T.D. Street,
Race Course Street,
Coimbatore – 641 018.

APPEARANCE:

For the Appellant : Ms. Mathanghi G., Advocate
For the Respondent : Ms. O.M. Reena, Authorised Representative

CORAM:
HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER No. 41011 / 2025

DATE OF HEARING : 06.08.2025
DATE OF DECISION : 11.09.2025

Per Mr. VASA SESHAGIRI RAO

This Service Tax Appeal No. ST/41085/2016 has been filed by M/s. Springfield Shelters Pvt. Ltd., (hereinafter referred to as the 'Appellants') assailing the Order-in-Appeal No. 077/2016 dated 01.04.2016 passed by the Commissioner of Customs, Central Excise and Service Tax

(Appeals), Coimbatore. By this impugned order the Lower Appellate Authority has upheld the Order-in-Original No. 16/2015(DC) dated 25.08.2015 of the Deputy Commissioner of Central Excise, Customs & Service Tax, Coimbatore III Division which confirmed demand of service tax of Rs.51,912/- along with applicable interest and imposition of penalty under Section 78 of the Finance Act, 1994.

2. It is noted that the Appellants have registered themselves for taxable services of "Construction of Complex Services" and "Work Contract Services". The appellants started two residential flat promotion ventures which were named 'THE PARK' and 'VESTAL'. For both these projects the appellants were paying service tax under 'works contract service'. But the Department accepted the classification of service as Works Contract for the VESTAL project only.

3. The Appellants were issued with a Show Cause Notice No. 18/2014-DC dated 18.10.2014 as to why an amount of Rs.51,952/- should not be demanded as service tax under section 73(1) of Finance Act 1994 along with applicable interest and why penalties under Section 76 & 78 be imposed.

4. After the due process of law, the Deputy Commissioner of Customs, Central Excise and Service Tax, Coimbatore III Division passed the Order-in-Original No. 16/2015(DC) dated 25.08.2015 confirming the demand and imposed penalty under Section 78 of the Finance Act, 1994.

5. The Appellant filed an appeal before the Commissioner (Appeals) Coimbatore, against the Order-in-Original which was rejected by issuing Order-in-Appeal No. CMB-C. EX-000-APP-077-2016 dated 01.04.2016.

6. Being aggrieved by the above order, the Appellant has preferred an Appeal before this Tribunal stating that for both the projects the service tax was self-assessed under the category of "Works Contract Service' and duly filed the periodical returns. The grounds of appeal are summarized as follows: -

i. The reasoning of the Adjudicating Authority based on the decision held by the Commissioner in respect of the appellants for the earlier period is contrary to settled law and contrary to facts.
ii. The advance received during the period January 2007 to June 2007 is not towards any services rendered.

iii. The loans and advances received have nothing to do with the services rendered and the department has also failed to prove that the amount had been received towards the services rendered.

7. The Ld. Advocate Ms. G. Mathanghi appeared on behalf of the Appellant and re-iterated the arguments incorporated in the grounds of appeal. She has relied upon the decision of this Tribunal in the Appellant's own case for the early periods issued *vide* 2025-(3)-TMI-9-CESTAT CHENNAI.

8. It was ordered therein that upto 01.07.2010, the classification of service would remain the same as declared by the service provider but post 01.07.2010, the tax would be chargeable under Construction of Complex Service if it is service simplicitor and under works contract if it is a composite works contract.

9. *Per contra*, the Ld. Authorized Representative Ms. O.M. Reena appearing for the Revenue, affirmed the findings in the Order-in-Appeal and submitted the appeal is liable to be rejected.

10. Heard both sides and considered the rival submissions including the evidence available on appeal records.

11. The only issue for our consideration is what is the appropriate classification of service to be adopted for the projects undertaken by the Appellant.

12. We find that the issue is no longer *res-integra* as the said issue has already been settled by this Tribunal in the Appellant's own case *[2025 (3) TMI 9 CESTAT CHENNAI]* wherein the following has been held: -

> *"8. From the above, it is clear that upto 1.7.2010, the classification of service would remain the same as declared by the service provider but however, post-1.7.2010 the tax would be chargeable under 'Construction of Complex Service' if it is service simpliciter and under 'Works Contract Service' if it is a composite works contract. From the discussions in the respective Orders-in-Original, there is no dispute that (i) the nature of work was under composite contract and (ii) in respect of ongoing projects commenced prior to 1.6.2007 for which the appellant had already remitted the service tax under SCS, though no service tax in respect of a composite contract was leviable in view of decision in L&T Ltd. (supra). In any case, it is an admitted fact on record that during the periods under dispute, the appellant continued to remit the service tax under WCS and hence there was no reason for the Revenue not to accept the same. Hence we are of the view that in the light of decision of Larsen & Toubro Ltd. (supra), which has been followed by various Benches of*

> *Tribunal across India, the liability as under CRCS cannot sustain. For this reason, we set aside the demands in the impugned orders and since the issue of interpretation was involved, there cannot be any scope of to allege suppression or whatsoever and hence no penalty could be exigible and hence demand and penalties are set aside."*

13. We find that the impugned order dated 01.04.2016 has merely confirmed the demand on the ground that for previous periods, orders were confirmed by the learned Commissioner (Appeals). As state above, since the previous orders have been set aside, the impugned order is also required to be set aside on the same grounds.

14. The Appellant has submitted that they have raised some advances much before 2007 for execution of the contracts and these are not related to any services provided. We find that denial of works contract service composition benefit for project 'PARK' is not justified when the same benefit was extended for another project *viz.,* 'VESTAL'. Both residential projects involve utilization of materials and labour and cannot be described as contracts simplicitor. On this account also, the demand of service tax cannot be sustained. There is also no justification for invoking extended period and so, penalty imposed is also to be aside.

15. In view of the above findings, the impugned Order-in-Appeal No. 77/2016 dated 01.04.2016 passed by the Commissioner of Service Tax (Appeals-I), Coimbatore is set aside. The appeal is allowed with consequential relief, if any, as per the law.

(Order pronounced in open court on 11.09.2025)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)

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