

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH - COURT No. III

Service Tax Appeal No. 41531 of 2015

(Arising out of Order-in-Appeal No.111 to 116/2015 (STA-II) dated 16.04.2014 passed by Commissioner of Central Excise (Appeals-II), 26/1, Mahatma Gandhi Marg, Nungambakkam, Chennai 600 034)

M/s.Le Royal Constructions Private Ltd. Appellant

Represented by its Manager C. John Rose,
No.60/34, II Floor,
South Usman Road,
T. Nagar,
Chennai 600 017.

VERSUS

**The Commissioner of GST &
Central Excise,**

Chennai South Commissionerate,
MHU Complex, No.692, Anna Salai,
Nandanam,
Chennai 600 035.

... Respondent

APPEARANCE :

Shri J. Shankarraman, Advocate for the Appellant
Shri M. Selvakumar, Authorized Representative
for the Respondent

CORAM :

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

FINAL ORDER No.41403/2025

DATE OF HEARING : 01.08.2025
DATE OF DECISION : 28.11.2025

Per: Shri P. Dinesha

The Appellant is engaged in the activity of "Construction of Residential Complex". A Show Cause Notice dt. 17.08.2009 was issued to the Appellant for the period from June 2006 to June 2008 raising service tax demand under the Category of "Construction of Residential Complex". Appellant appears to have filed its detailed reply *inter alia* contending that they are not liable to pay service tax in respect of Construction of Residential Complex prior to 01.07.2010 in view of Board's Circular No.108/2/2009-ST dated 29.01.2009 and insertion of Explanation to Section 65 (105) (zzzh) with effect from 01.07.2010. After due process, the Original Authority confirmed the demand with interest and imposed penalties under Section 77 & 78 of the Finance Act, 1994. Aggrieved by the same the Appellant preferred an Appeal before the First Appellate Authority who rejected the Appeal vide Order-in-Appeal No.111-116/2015 dated 16.04.2014. Hence, the present Appeal has been filed by Assessee before this Forum.

2. Heard Shri J. Shankarraman, Ld. Advocate for the Appellant and Shri M. Selvakumar, Ld. Assistant Commissioner for the Respondent, we have perused the records and the judicial precedents filed during the course of hearing.

3. After hearing both sides, we find that the short point that arises for our consideration in this Appeal is, "whether demand of service tax made under "Construction of Residential Complex Services" and "Works Contract Service" is sustainable?".

4. We find that the issue stands settled in favour of the Assessee vide a series of Tribunal Decisions, one such earliest decision being **Krishna Homes v. CCE - 2014 (34) STR 881 (Tri.-Del)**. The ratio of the said decision has since been followed in subsequent Tribunal decisions such as **Pragati Edifice Pvt. Ltd v CCE & ST** vide, Final Order No.31010-31011/2019 dated 18.09.2019 and in **Chaitanya Builders & Leasing Pvt Ltd v Commissioner of GST & Central Excise** vide Final Order No.410868/2025 dated 26.09.2025 Very recently, the Chennai Bench in **Dugar Housing Vs CGST & CE, Chennai North** vide Final Order

No.41319/2025 dt. 13.11.2025 on an identical issue held as under :

9. In view of the above, though in view of the Apex Court judgment in the case of *M/s. Larsen & Toubro Limited and Others v. State of Karnataka & Others* (supra), the agreements entered into by a builder/promoter/developer with prospective buyers for construction of residential units in a residential complex against payments being made by the prospective buyers in instalments during construction and in terms of which the possession of the residential unit, is to be handed over to the customers on completion of the residential complex and full payment having been made, are to be treated as works contracts, it has to be held that during the period of dispute, there was no intention of the Government to tax the activity in terms of such contracts a builder/developer with prospective customers for construction of residential units in a residential complex. Such works contracts involving transfer of immovable property were brought within the purview of taxable service by adding explanation to Section 65(105)(zzzh) w.e.f. 1-7-2010, and therefore, it has to be held that such contracts were not covered by Section 65(105)(zzzh) during the period prior to 1-7-2010.” (emphasis supplied)

12. We find that the said decision has since been followed in the subsequent decisions relied upon by the Appellant, i.e., in *Pragati Edifice Pvt Ltd v CCE & ST, Final Order No.31010-31011/2019 dated 18.09.2019* and in *Chaitanya Builders & Leasing Pvt Ltd v Commissioner of GST & Central Excise, Final Order No.410868/2025 dated 26.09.2025*.

13. In the light of the ratio of the aforesaid binding decisions of the coordinate benches of the Tribunal, we hold that the services provided by the appellant in respect of the projects executed by them for the relevant period, being in the nature of composite works contract cannot be brought within the fold of “construction of complex” service

and thus the impugned OIA to the extent it upholds the impugned OIO confirming the demand along with applicable interest and imposing penalty, cannot sustain and is liable to be set aside on merits.

14. We also note that the issue whether service tax could be levied on Composite Works Contract prior to the introduction of the Finance Act, 2007, by which the Finance Act, 1994 came to be amended to introduce Section 65(105)(zzzza) pertaining to Works Contract, being a subject matter of litigation during the relevant period, evidences that the issue involved interpretational disputes. As such, no malafide can be attributed to the appellants warranting invoking of the extended period of limitation and the appellants' contentions against invoking of extended period of limitation is also tenable.

15. In the light of our deliberations above, the impugned Order in Appeal to the extent it upholds the impugned OIO confirming the demand along with applicable interest and imposing penalty under Section 77 of the Finance Act, 1994, cannot be sustained and is hereby set aside.

The appeal is allowed with consequential relief(s) in law, if any."

5. Following the same, we hold that demand in the impugned order cannot sustain and hence, the impugned order is set aside. Appeal is allowed with consequential benefits, if any, as per law.

(Order pronounced in open court on 28.11.2025)

sd/-

(VASA SESHAGIRI RAO)
Member (Technical)

sd/-

(P. DINESHA)
Member (Judicial)