FAX : 011-26108426 REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: **23/07/2014**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/52870/2014-CU[DB]** dated **21/07/2014**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section **01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.**

Asstt. Registrar(CUSTOMS Appeal Branch)

Application	Appeal	Name and Address of Appellant
1 ST/MISC/60610/2013	ST/236/2008	**B.L.GUPTA CONSTRUCTION PVT. LTD.** 2-A-21, FEROZE GANDHI ROAD, LAJPAT NAGAR, NEW DELHI-110024.

Name and Address of Respondent

2 **C.S.T. DELHI**
17-B, I.P. Estate, IAEA House,
New Delhi.

Copy To
3Advocate(s) / Consultant(s):

J. K. Mittal & co
A-15, IIIrd Floor,
Priyadarshini Vihar,
Delhi-110092

4 Bar Association, CESTAT, Delhi
5 Director Publications, Customs, Excise. I.P. Estate, Delhi
6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

13 C.D.R. **14** Office Copy **15** Guard File

Asstt. Registrar(CUSTOMS Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 21.7..2014

Miscellaneous Application No.60610 of 2013 and Service Tax Appeal No.236 of 2008

Arising out of the order in original No.01/VKG/CST/2008 dated 8.1.2008 passed by the Commissioner of Service Tax New Delhi .

For approval and signature:

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R.K. Singh, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 26 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

B.L. Gupta Construction Pvt. Ltd. .. Appellants

Vs.

C.S.T., Delhi .... Respondent

Appearance:

Present Shri Kamal Gupta, C.A. for J.K. Mittal & Co. for the appellants
Present Shri Amresh Jain, A.R for respondent

Coram: Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R.K. Singh, Technical Member

Final Order No. 52870/2014

Per Justice G. Raghuram:

The application is filed seeking early hearing of the appeal preferred in 2008 against the adjudication order dated 8.1.2008 passed by the Commissioner of Service Tax, New Delhi. As the issue involved in the present appeal is covered by the Larger Bench decision of this Tribunal in ***Bhayana Builders (P) Ltd. vs. Commissioner of Service Tax, Delhi*** - 2013 (32) STR 49 we take up the main appeal itself for disposal.

2. The impugned order (passed by the adjudicating authority) confirmed service tax demand of Rs.1,68,49,508/-, apart from interest and penalty as specified in the order, on the ground that the appellant during 10.9.2004 to 31.3.2006 provided "commercial or industrial construction" and "construction of complex" services to several recipients; remitted service tax on the consideration received for the rendition of such services after availing the benefit of exemption Notification No.15/2004-ST dated 10.9.2004 as amended by Notification No.18/2005-ST dated 7.6.2005 but failed to include the value of the goods/material supplied free of cost by service recipients to the appellant/service provider, for incorporation into constructions executed by the appellant for favour of recipients. The value of such free goods was the taxable value considered for confirmation of the demand.

3. This very issue stands concluded by the judgment of the Tribunal in ***Bhayana Builders (P) Ltd***. That this is so is not disputed by the ld. A.R. for Revenue. In the circumstances, the appeal is allowed. The impugned order passed by the Commissioner of Service Tax, Delhi is quashed. The appellant shall be entitled to refund of the amount deposited, pursuant to initiation of proceedings and confirmation of the demand and as was appropriated by the impugned order, expeditiously. No costs.

(Justice G. Raghuram)
President

(R.K. Singh)
Technical Member