

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH-COURT NO.1

Service Tax Appeal No. 51596 of 2018

(Arising out of Order-in-Appeal No. BHO-EXCUS-001-APP-17-18 dated 28.11.2017 passed by the Commissioner (Appeals), Customs, Central Excise & Service Tax, Bhagya Bhawan M.P. Nagar Zone II, Bhopal (M.P.))

M/s Amrita Kaur Pal

....Appellant

Versus

CCE Jabalpur

....Respondent

APPEARANCE:

Shri Arya Bhatt, Advocate for the Appellant

Shri Rajesh Jain, Authorized Representative of the Department

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT

HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER NO. 50854/2023

Date of Hearing: JULY 04, 2023

JUSTICE DILIP GUPTA

The sole issue involved in this appeal is as to whether a sub-contractor is required to discharge service tax liability even when the main contractor has discharged the same.

2. Learned counsel for the appellant has placed reliance upon the order dated 21.02.2014 of a learned Member of the Tribunal in **C.C.E. & S.T. Bhopal v/s M/s Amar Construction Company¹** holding that a sub-contractor would not be required to discharge service tax liability.

3. Mr. Rajesh Jain, learned authorized representative appearing for the Department has, however, placed reliance upon the Larger Bench decision of the Tribunal in **Commissioner of Service Tax,**

1. 2014 (2) TMI 1279- CESTAT, New Delhi

New Delhi v/s Melange Developers Private Limited² to contend that service tax liability will have to be discharged by a sub-contractor even if the main contractor had discharged the liability.

4. The Larger Bench of the Tribunal answered in the following manner.

“A sub-contractor would be liable to pay Service Tax even if the main contractor has discharged Service Tax liability on the activity undertaken by the sub-contractor in pursuance of the contract. ”

5. Thus, the order dated 28.11.2017 passed by the Commissioner (Appeals) is upheld. The appeal is accordingly, dismissed.

(Order dictated and pronounced in the open Court)

**(JUSTICE DILIP GUPTA)
PRESIDENT**

**(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)**

Rekha