IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision:03.02.2017

Service Tax Appeal No.3177/2012 (DB)

[Arising out of Order-in-Appeal No.144/S.Tax /D.II/12 dated 23.07.2012 passed by the Commissioner of Central Excise (Appeals), New Delhi]

M/s.Compliance Construction Contracts (Pvt.) Ltd. Appellants

Vs.

CST, Delhi-II Respondent

Appearance:

Rep. by Shri R. Krishnan, Advocate for the appellant.
Rep. by Shri Sanjay Jain, DR for the respondent.

Coram: Hon'ble Shri S. K. Mohanty, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No.50676/2017

Per B. Ravichandran:

The appeal is against order-in-appeal dated 23.07.2012. The appellants are engaged in rendering construction service of building residential complex. The services rendered are of composite nature involving supply of goods also. Accordingly, the appellant got registered with the Department for discharging service tax under the category of "Works Contract Service" w.e.f. 1.6.2007. The dispute in the present appeal is relating to their tax liability for the said services under the category of "Construction of Residential Complex Service". The lower authorities confirmed the demand against the appellant for the period October, 2007 to March, 2008 holding that the introduction of tax service category w.e.f. 1.6.2007 will not take away the tax liability of the appellant for the period prior to that date if the same is taxable under the category of "Construction of Residential Complex Service".

2. Ld. Counsel appeared for the appellant submitted that, admittedly, the work executed by them is in terms of the Composite Works Contract. There is no dispute on that. However, the Revenue held that the tax liability of the appellant should be discharged under "Construction of Residential Complex Service" without any abatement

as supporting evidences were not produced for value of materials. He submitted that in terms of the law laid down by the Hon'ble Supreme Court in **Larsen & Toubro Ltd. 2015 (39) STR 913 (SC),** it is clear that the Works Contract Service rendered by the appellant is liable to tax only w.e.f. 1.6.2007. They have been discharging appropriate tax under the said service category.

3. Ld. AR reiterated the findings of the lower authorities.

4. We have heard both the sides and perused the appeal records.

5. When the appellants were providing service under a "Composite Works Contract", their tax liability is attracted under tax entry 'work contract service' as per law laid down by the Hon'ble Supreme Court in the case of **Larsen & Toubro Ltd. (supra).** The services rendered by the appellant are liable to tax only w.e.f. 1.6.2007. Any contrary finding will be against the ratio of the Hon'ble Supreme Court in **Larsen & Toubro Ltd. (supra).** Accordingly, we find that the impugned order is not legally sustainable and the same is set aside. The appeal is allowed.

[order dictated & pronounced in open court]

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

Ckp.