CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Service Tax misc. Application No. 50154 OF 2017 in
Service Tax Appeal No. 57327 of 2013

(Arising out of Order-in-Original No. Commissioner/RPR/27/ST/2013 dated 31.01.2013 passed by the Commissioner of Central Excise, Customs & Service Tax, Raipur)

DATE OF HEARING : 15.02.2017
DATE OF DECISION : 15.02.2017

M/s Pawan Engineering Works …. Appellants
(Rep. by Sh. Vikrant Singh Bais, Adv.)

VERSUS

CCE, Raipur …. Respondent
(Rep by Sh. Amresh Jain, DR)

CORAM : HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. V. PADMANABHAN, MEMBER (TECHNICAL)

MISC. ORDER NO. 50099/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

The present miscellaneous application has been filed by the assessee-Appellants. Shri Vikrant Singh Bais, learned counsel for the assessee-Appellants, submits that in the show cause notice the noticee no. 1, M/s Larsen & Toubro Ltd. was mentioned and only a negligible penalty was imposed against them. Hence, it is necessary to implead M/s Larsen & Toubro Ltd. as a necessary party in the instant case.

2. On the other hand, Shri Amresh Jain, learned DR for the Department, submits that the assessee-Appellants had provided the services to M/s Larsen & Toubro Ltd. and their status is of a service provider. He also submits that as per the Finance Act, 1994 only the assessee-Appellants are liable to pay the Service Tax.

3. After hearing both sides and on perusal of record, it appears that against the impugned order the matter has come up before this Tribunal and the Tribunal vide its order dated 27.05.2014 had directed the assessee-Appellants to make the pre-deposit. When the assessee-Appellants had failed to deposit the amount directed by this Tribunal vide order dated 27.05.2014 and even within the extended period granted by the High Court of Chhattisgarh in Tax Case No. 34/2015 vide order dated 19.06.2014, then the appeal filed by the assessee-Appellants was dismissed by the Tribunal on 02.01.2015 due to failure of pre-deposit. Being not satisfied, the assessee-Appellants approached the Hon'ble Supreme Court in Special Leave Petition (Civil) No. 32961/2015 where the Hon'ble Apex Court has directed the assessee-Appellants to make the pre-deposit of total service tax liability and if this liability is discharged then the appeal may be heard by this Tribunal. The assessee-Appellants have deposited the full Service Tax liability. Hence, by the instant miscellaneous application the assessee-Appellants want that M/s Larsen & Toubro Ltd. may also be made a necessary party.

4. It may be mentioned that against the penalty imposed on M/s Larsen & Toubro Ltd., they have also filed separate appeal before this Tribunal no. 60811/2013. When it is so, then we find no necessity to make M/s Larsen & Toubro Ltd. as a necessary party in the present appeal

especially when they have already filed the separate appeal. List this appeal along with Appeal No. 60811/2013 for final hearing on 02.03.2017.

5. In the result, the miscellaneous application is dismissed.

(Dictated & pronounced in the open court)

(V. PADMANABHAN)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

Golay