(In the Customs, Excise & Service Tax Appellate Tribunal
West Block No.2, R.K. Puram, New Delhi-110066

Appeal No.ST/53570/2014(DB)

(Arising out of Order-in-Original No.Commissioner/RPR/ST/13/2014 dated 19.03.2014 passed by Commissioner of Central Excise and Service Tax Commissionerate, Raipur)

Rajendra Engg. Enterprises …Appellant

Vs

CCE Raipur …Respondent

Appearance:
Present for the Appellant : Ms Asmita A. Nayak, Sh Ranjeet Kr Ranjan, Advocates
Present for the Respondent : Shri Sanjay Jain, DR

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

Date of hearing/decision: 07.08.2017

Final Order No.55778/2017

Per Justice (Dr) Satish Chandra,

The present appeal is filed against Order-in-Original number Commissioner/RPR/ST/13/2014 dated 19.03.2014. The period of dispute is April, 2007 to September, 2011. The brief facts of the case are that during the period under consideration, the appellant was engaged in providing maintenance and repair services. The department levied Service Tax under the heading of "maintenance or repair services" but the appellant has claimed that it falls under the heading of 'works contract services', as per the ratio laid-down by the Hon'ble Supreme Court in the case of Commissioner of C. EX. & CUS., Kerala Vs Larsen & Toubro Ltd, 2015(39) S.T.R. 913(S.C.)

2. During the course of argument, both parties agreed that the nature of the heading will have to be determined by adjudicating authority once again in the light of the ratio laid down by the Supreme Court. So we set-aside the impugned order and remand the matter to the adjudicating authority to decide issue afresh in the light of above discussion but by providing an opportunity to the appellant. Additional evidence, if need be, may be admitted as per law.

3. In the light of above discussion, the appeal is allowed by way of remand.

(Dictated in the open court)

(V.Padmanabhan) Member (Technical)	(Justice (Dr) Satish Chandra) President

pcs