IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I

Service Tax Appeal No. 790 of 2012

[Arising out of Order-in-Appeal No. 83/BPL/2012 dated 16.4.2012 passed by the Commissioner of Central Excise, (Appeals), Bhopal]

M/s. M P Goswami Engineers &. Contractors — **Appellant**

Vs.

Commissioner of Central Excise & ST, Bhopal — **Respondent**

Appearance:

Shri Z U Alvi for the Appellants
Shri Ranjan Khanna, Shri Sanjay Jain, AR for the Respondent

CORAM:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing/ Decision: 14.09.2017

FINAL ORDER NO. 56649 /2017

Per: Justice (Dr.) Satish Chandra:

The present appeal is filed against the order in Appeal No. 83/BPL/2012 dated 16.4.2012 . The period of dispute is 2006-2007.

2. Brief facts of the case are that the appellant is civil construction contractor and executing the contract for construction of buildings etc. The appellant were duly registered with the department as provider of commercial and industrial construction services and was paying the service tax and filing regularly the ST-3 returns. The abatement was denied for the period under consideration 2006-2007. Being aggrieved, the appellant has filed the present appeal.

3. With this background, we have heard Shri Z U Alvi and Shri Ranjan Khanna, Shri Sanjay Jain, learned Counsels for the parties.

4. Learned Counsel Shri Alvi submits that in the previous year 2005-2006, abatement was allowed by Commissioner (Appeals) for the reason that the raw material was supplied by the appellant. But during the period under consideration, he submits that abatement has not been allowed. At this stage, Shri Sanjay Jain, learned Counsel submits that the appellant was providing services of work and contract and this aspect needs to be examined.

5. In view of the above, we set aside the impugned order and remand the matter back to the adjudicating authority to examine whether during the period under consideration, 2006-2007, the appellant was providing the work contract service or not, If work and contract services were provided, then the benefit of ratio laid down by

the Hon'ble Supreme Court in the case of ***CCE, Kerala vs. L & T [2015 (39) STR 913 (SC)]*** may be extended to the appellant.

6. With the above observations, the impugned order is set aside and remand the matter to the original authority to decide the issue afresh as per law.

7. In the result, appeals are allowed by way of remand.

(Dictated and pronounced in the open Court)

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

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