IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT –IV

Service Tax Appeal No.ST/256/2011 [SM]

[Arising out of Order-in-Appeal No.IND / 262/2010 dated 09/14.09.2010 passed by the Commissioner (Appeals), Customs & Central Excise, Indore]

M/s.Satyam Builders & Developers …Appellant

Vs.

C.C.E., Indore … Respondent

Present for the Appellant : Ms.Kumar Vikram, Advocate
Present for the Respondent: Ms.Kanu Verma, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

Date of Hearing/Decision: 14/09/2017

FINAL ORDER NO. 56674/2017

PER: S.K. MOHANTY

This appeal is directed against the impugned order dated 09.09.2010 passed by the Commissioner (Appeals) Customs, Central Excise and Service Tax, wherein the refund amount was credited to the Consumer Welfare Fund on the principles of doctrine of unjust enrichment.

2. Heard both sides and perused the case records.

3. It is an admitted fact on record that the appellant received the Service Tax element from its client and deposited such amount with the Central Government account. Thus, it is evident that the Service Tax element on which the refund claim

was filed is not the amount belonging to the appellant. Rather, the Service Tax amount for which the refund claim has been filed belongs to the client and under the circumstances, if the said amount is refunded to the appellant, it will be a case of unjust enrichment, inasmuch as, at the cost of its client, the appellant itself will be unjustly enriched. Therefore, I do not find any infirmity in the impugned order passed by the ld. Commissioner (Appeals). Accordingly, the appeal filed by the appellant is dismissed.

[Dictated and pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita