IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. I

DATE OF HEARING : 27/09/2017.
DATE OF DECISION : 27/09/2017.

Service Tax Appeal No. 2203 of 2012

[Arising out of the Order-in-Appeal No. 101/BPL/2012 dated 17/05/2012 passed by The Commissioner (Appeals), Central Excise, Bhopal.]

CCE & ST, Bhopal — Appellant

Versus

M/s Satpura Construction — Respondent

Appearance

Shri Neha Garg, Authorized Representative (DR) - for the appellant.

None – for the Respondent.

CORAM : **Hon'ble Shri Justice Dr. Satish Chandra, President**
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 56881/2017 Dated : 27/09/2017

Per. B. Ravichandran :-

The Revenue is in appeal against order dated 17/05/2012 of Commissioner (Appeals), Bhopal. The Revenue is aggrieved by the impugned order on the ground that the Commissioner (Appeals) held that the respondent's activities were with reference to constructions of non-commercial nature. The

Revenue is also aggrieved by the order allowing abatement under Notification 15/2004-ST.

2. The learned AR while elaborating the grounds of appeal submitted that subsequent to the appeal by the Revenue, the development on the legal issue regarding taxability of contracts which are considered composite in nature were resolved by Hon'ble Supreme Court in **CCE & CUS, Kerala vs. Larsen & Toubro Ltd. – 2015 (39) S.T.R. 913 (S.C.)**. He submits that though the present grievance of the Revenue is on different grounds, in view of the Apex court decision, the facts are to be re-examined for a proper conclusion.

3. None appeared on behalf of the respondent in spite of notice. We note that when the case was listed on 22/08/2017, the matter was adjourned for today. The same was noted by the Counsel for the respondent Shri Kuldeep Singh who was present on that day. Accordingly, we proceed to decide the case based on facts on records and the submissions of the learned AR. We note that the impugned order discussed about the scope of contracts to arrive on certain conclusion. We note that though separate finding was not recorded regarding the applicability of works contract service introduced w.e.f. 01/06/2007, the Apex court decision in **Larsen & Toubro Ltd.** (supra) lays down the law regarding the tax liability of such contract. It is necessary to examine the ratio of the said decision in order to arrive at the correct conclusion in the present case. As the decision was not

available for the lower authorities during the material time. We set aside the impugned order to remand the matter to the Original Authority to have a fresh look in the matter, in line with the observation of the Hon'ble Supreme Court in the case of **Larsen & Toubro Ltd.** (supra). Accordingly, the impugned order is set aside. In the result, the appeal is allowed by way of remand. Due opportunity may be provided to the assessee before a decision is taken in the matter, afresh.

(Order dictated and pronounced in the open court.)

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

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