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 : 07/12/2017.
DATE OF DECISION : 07/12/2017.

Service Tax Appeal No. 494 of 2012

[Arising out of the Order-in-Appeal No. 08/S.Tax/D-II/2012 dated 24/01/2012 passed by The Commissioner of Central Excise (Appeals), Delhi – II, New Delhi.]

M/s Compliance Construction] Appellant
Contracts Pvt. Ltd.]

Versus

CST, Delhi Respondent

Appearance

Shri R. Krishnan, Advocate - for the appellant.

Shri A.K. Singh, Authorized Representative (DR) – for the Respondent.

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

Final Order No. 58424/2017 Dated : 07/12/2017

Per. B. Ravichandran :-

The appeal is against order dated 24/01/2012 of Commissioner (Appeals), Delhi – II. The appellants are engaged in construction activities. The lower authority held that the appellant is liable to pay service tax under commercial or industrial construction service for the period June 2005 to

September 2007. The Commissioner (Appeals) reversed the order of Original Authority who initially held that the services are taxable only under works contract service and since such service came into existence for tax liability only w.e.f. 01/06/2007 the liability for previous period was set aside. The learned Counsel for the appellant submitted that the impugned order is incorrect to the extent that a composite works contract cannot be subjected to tax prior to 01/06/2007. In line with the ratio laid down by Hon'ble Supreme Court in **CCE & ST, Kerala vs. Larsen & Toubro Ltd. – 2015 (39) S.T.R. 913 (S.C.),** he is not contesting their tax liability post 01/06/2007 under works contract service. The same has been discharged and not contested. On the same line, he pleaded for setting aside the penalties as the dispute involved is with reference to composite works contract. The matter was subjected to different interpretations earlier.

2. We have heard both the sides and perused the appeal record. The admitted fact of the case is that the appellant executed composite works contract involving supply of goods as well as provision of service. Such contracts are liable to service tax only w.e.f. 01/06/2007 in terms of ratio laid by Hon'ble Supreme Court in **Larsen & Toubro Ltd.** (supra). As such, we find no tax liability for the appellant prior to 01/06/2007. The impugned order is not correct to this extent. For the period post 01/06/2007 the appellant are not contesting their tax liability.

3. In view of the above facts, we note that the impugned order confirming tax liability for the period prior to 01/06/2007 is not sustainable. Accordingly, the same is set aside to this extent alongwith penalties imposed on the appellant. The appeal is allowed.

(Order dictated and pronounced in the open court.)

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

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