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

Service Tax Appeal No. 830 of 2011

[Arising out of Order-in-Appeal No. 110(CB)ST/JPR-II/2011 dated 17.03.2011 passed by the Commissioner of Central Excise (Appeals), Jaipur]

M/s. Godha Enterprises Ltd. **Appellant**

Vs.

Commissioner of Central Excise **Respondent**
& ST, Jaipur II

Appearance:

Shri Kumar Vikram, Advocate for the Appellants
Shri P Juneja, AR for the Respondent

CORAM:

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

Date of Hearing/ Decision: 22.12.2017

FINAL ORDER NO.58698/2017

Per: Justice (Dr.) Satish Chandra:

The present appeal is filed against Order-in-Appeal No. 110(CB)ST/JPR-II/2011 dated 17.03.2011.

2. Brief facts of the case are that the appellant is engaged in erection, installation and commissioning of DG sets through out the

country. For the period August, 2003 to 2007, department raised demand of service tax. Being aggrieved, the appellant has filed the present appeal.

3. With this background, we heard Shri Kumar Vikram and Shri P Juneja, learned counsel for the parties and gone through the material available on record.

4. Shri Kumar Vikram, learned Counsel appearing for the appellant submits that dispute is regarding interpretation of law / provision of service tax on erection, commissioning and installation services which became taxable with effect from 10.9.2004. Prior, it was not applicable. He drew our attention to entries dated 1.08.2003. He requested that service tax is not applicable.

5. On the other hand, Shri P Juneja, learned Counsel submits that nature and work of the appellant is installation and commissioning and dismantling. The work of erection is impliedly involved dismantling which is not required separately and installation and dismantling were already there prior to cut off date and provision is applicable to them.

6. By considering the rival submissions, we are of the view that nature of services provided by the appellant needs to be examined in the light of the amendment made in the Finance Act, 1994. With the consent of both the parties, the matter is remanded to the original authority to examine the nature of services provided by the appellant

and applicable service tax demand by the department. Adjudicating authority will decide all the issues de novo but by providing reasonable opportunity to the appellant. Fresh evidence, if need be, may be admitted, as per law.

7. In the result, appeal filed by the appellant is 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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