IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,

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

BENCH-DB

COURT –IV

Service Tax Misc. Application No. ST/Misc./50698/2016 in Service Tax Appeal No.ST/59780/2013 - ST [DB] &

[Arising out of Order-in-Original No.47-48/GB/2013 dated 26.03.2013 passed by the Commissioner of Service Tax, Delhi]

Service Tax Appeal No.ST/54606/2014 – ST [DB]

[Arising out of Order-in-Original No.7/ST/COMMR/DM/RTK/2014-15 dated 30.05.2014 passed by the Commissioner of Central Excise, Rohtak].

Classic Constructions …Appellant

Vs.

C.C.E., Delhi-I
C.C.E., Rohtak … Respondents

Present for the Appellant : Mr.Anil Kumar Khanna, Advocate
Present for the Respondent: Mr.R. Khanna, D.R.

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

Date of Hearing / Decision : 09.01.2018

FINAL ORDER NO. 50125-50126/2018

PER: B.RAVICHANDRAN

After hearing both the sides, we note that the present dispute is with reference to tax liability of the appellant under the category of errection, commissioning and installation work in terms of Section 65 (105) (zzd) of the Finance Act, 1994.

The appellants executed composite works contract involving supply of goods as well as provision of service.

2. The ld. Counsel for the appellants fairly submits that though they are pleading that these contracts are to be considered as composite works contracts, the actual contracts were not available with the original authority at the time of adjudication. Now these documents are available for scrutiny.

3. Both the sides agreed that the facts required re-verification with relevant contract documents to satisfy whether these are in fact, works contract services liable to be taxed with effect from 01.06.2007 only, in terms of Hon'ble Supreme Court decision in Larsen & Tuobro Ltd. - 2015 (39) STR 913 (SC).

4. The ld. AR submitted that there appears to be certain contracts, where the supply of material is by the recipient of service. This aspect also requires verification.

5. Both sides agreed that the original authority should be mandated to verify all the facts without restriction and the appellant be permitted to submit additional evidence relevant to the fact findings in the present case.

6. In view of the above, we set aside the impugned orders and remand the matter to the original authority. We note that

the ld. Counsel for the appellant also made a point regarding non-receipt of show cause notice dated 15.10.2012 by them which is not considered by the lower authorities. This aspect alongwith certain disputes regarding improper quantification of value also shall be looked into by the original authority with connected documents to be submitted by the appellant.

7. Misc. application is for submission of additional documents like work orders etc., which is allowed. Since the matter is remanded back to the original authority, the same shall be produced before the original authority. The appeals are allowed by way of remand.

[Dictated and pronounced in the open Court]

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita