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

Service Tax Appeal No. 585 of 2011

[Arising out of Order-in-Appeal No. 24(DKV)ST/JPR-I/2011 dated 18.1.2011 passed by the Commissioner of Customs & Central Excise (Appeals I), Jaipur]

Buildcon Consultants P Ltd. **Appellant**

Vs.

Commissioner of Central Excise **Respondent**
Jaipur

Appearance:

Ms. Priyanka Goel, Advocate for the Appellants
Shri A K Singh, AR for the Respondent

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

Date of Hearing/ Decision: 22.1.2018

FINAL ORDER NO. 50443 /2018

Per: Justice (Dr.) Satish Chandra:

The present appeal is filed by the appellant against the Order-in-Appeal No. 24(DKV)ST/JPR-I/2011 dated 18.1.2011.

2. Brief facts of the case are that during the period (10.9.2004 to 25.3.2005), the appellant was engaged in the completion and finishing services such as glazing, plastering, painting floor and wall cling etc. The department has brought the said services under section 65 (30A) of the Finance Act by considering the same as 'construction services'. So, the demand of Rs. 3,49,949/- was raised

with imposition of equivalent amount of penalty. Being aggrieved the appellant has filed the present appeal.

3. With this background, we heard Ms. Priyanka Goel, learned Advocate and Shri A K Singh, learned representatives of the parties and gone through the material available on record.

4. After hearing both the parties, it appears that in the Board Circular (F. No. B1/6/2005-TRU dated 27.7.2005), it was observed that-

> ***"14.2 Post construction completion and finishing services such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, especially if undertaken as an isolated or stand alone contract, are also specifically included. Thus, post construction completion and finishing services are specifically included in the definition of commercial or industrial construction services. "***

5. The above mentioned circular has brought the services in question under the clutches of Service tax with effect from 27.7.2005.

6. But in the instant case, the period is prior to 27.7.2005, hence service tax is not applicable. When it is so, then we set aside the impugned order and allow the appeal.

(Dictated and pronounced in the open Court)

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

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