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

Service Tax Appeal No. 50638 of 2014

[Arising out of Order-in-Appeal No. 158 (ST)/RPR-I/2013 dated 24.9.2013 passed by the Commissioner of Central Excise & Service Tax, Raipur (CG)]

Commissioner of Central Excise Raipur **Appellant**

Vs.

M/s. Chhattisgarh Construction and Material Suppliers **Respondent**

Appearance:

Shri Sanjay Jain, DR for the Appellants
Shri A K Batra, CA for the Respondent

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

Date of Hearing /Decision: 18.1.2018

FINAL ORDER NO. 50521/2018

Per: B Ravichandaran:

The Revenue is in appeal against the order of Commissioner (Appeals) dated 24.9.2013. The only dispute in the present appeal is dropping of differential service tax demand of Rs.1,63,006/- by Commissioner (Appeals) and also non imposition of penalties under section 76, 77 and 78 of the Finance Act, 1994. The respondent undertook construction of house for economically weaker section in pursuance of "Atal Awas Yojna for Chhattisgarh Housing Board."

The service tax liability was discharged when proceedings were initiated against the respondent. There was a differential service tax liability of Rs.1,63,006/- which occurred due to difference between amount mentioned in the ST 3 return and the balance sheet of the respondent. The reason for the difference has been explained by the respondent before the first appellate authority. Accepting the details, the demand for such differential duty was dropped.

3. On perusal of the appeal by the Revenue, we find sustainable reason which justify said decision of the impugned order. Revenue states that such reconciliation statement was provided before the Commissioner (Appeals) only and not before the original authority. We find such submission is in relation to decide the correct tax liability.

4. Regarding the non-imposition of penalty, we note that the Commissioner (Appeals) after examining the facts and circumstances of the case, found it fit and proper to invoke the provisions of section 80 of the Finance Act, 1994 to drop the penalties against the respondent. We have perused the reasons adopted by the Commissioner (Appeals). We find no reason to interfere with such findings regarding construction of house for Chhattisgarh Housing Board for Government scheme for economically weaker section. Apparently, the respondent entertained a bonafide belief that regarding non-liability of service tax. Hence, we find no reason to

interfere with the discretion exercised by the Commissioner (Appeals) for waiving the penalty invoking the provisions of section 80.

5. The appeal filed by the Revenue is dismissed.

(Dictated and pronounced in the open Court)

(Justice (Dr.) Satish Chandra)	**(B Ravichandaran)**
President	**Member(Technical)**

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