

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi - 110 066.**

Date of Hearing: 13/12/2018

Appeal No. ST/51283/2015-(DB)

(Arising out of Order-in-Appeal No. 82-SLM-ST-JPR-2014 dated 28/11/2014 passed by the Commissioner of Central Excise-JAIPUR-I(Appeal)

Hadoti Builders And Developers Pvt. Ltd

Appellant

Vs.

C.C.E. & S.T.-Jaipur-I

Respondent

Appearance

Sh. H. Bansal, Advocate - for the appellant

Sh R.K.Majhi, DR. - for the respondent

CORAM: **Hon'ble Mr. Bijay Kumar, Member (Technical)**
Hon'ble Mrs. Rachna Gupta, Member(Judicial)

Final Order No. 53417/2018

Per: Bijay Kumar

1. The present appeal has been filed by the appellant against the Order-in-Appeal No. 82-SLM-ST-JPR-2014 dated 28/11/2014 passed by the Ld. Commissioner (Appeal).

2. The brief facts of the case are that:

2.1The appellant is having service tax Registration is engaged in provided services of commercial and industrial construction service to M/s Sushil Kumar Enterprises and duty against the agreement as per the agreement no receipt has provided. Cement and steel used for providing services free of cost used in their project. The appellant paid the service tax on the 33 % of their value upto availing the benefit of Notification No. 1/2006 ST dated 1/2/2016, however the Ld. Adjudication Authority denied the abatement and the same was

upheld by the Commissioner (appeal) by the impugned order although the benefit of Notification 1/2006, was granted but on account of competition of the value giving the benefit was denied.

3. Against this background we heard Ld. Advocate who states the issue is no more res integra and covered by the Decisions of **Bhayana Builders Pvt. Ltd. Vs. Commissioner of Service Tax, Delhi** [2013 (32) STR 49 (Tri.-LB)] & **Commissioner of Service Tax vs. Bhayana Builders Pvt. Ltd.** [2018 (10) GSTL 118 (SC)]
4. Ld AR also appreciates to the fact that the issue is decided in favour of appellant by applying the decision of larger bench of this Tribunal in the case of **M/s Bhayana Builders Pvt. Ltd.** as stated by Ld. Advocate.
5. Ld. AR concurs with the Ld. Advocate and says that the issue is squarely covered by the case the **M/s Bhayana Builders (supra)**
6. In view of above we set aside the impugned order and allow the appeal

(Dictated and pronounced in open court)

(Rachna Gupta)
Member(Judicial)

(Bijay Kumar)
Member(Technical)