CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Division Bench
Court – I

Sl. No.	Appeal No.	Appellant (s)	Respondent (s)	Impugned Order
1.	ST/698/2011	Grandeur Homes Pvt. Ltd.,	CCE, C & ST, Hyderabad –II	OIA No. 07/2011 (H-II) ST dt. 31.01.2011
2.	ST/699/2011	Alpine Estates	-do-	OIA No. 08/2011 (H-II) S. Tax dt. 31.01.2011
3.	ST/700/2011	Paramount Builders	-do-	OIA No. 09/2011 (H-II) S. Tax dt. 31.01.2011
4.	ST/701/2011	Modi & Modi Constructions	-do-	OIA No. 10/2011 (H-II) S. Tax dt. 31.01.2011
5.	ST/702/2011	Greenwood Estates	-do-	OIA No. 11/2011 (H-II) S. Tax dt. 31.01.2011
6.	ST/25258/2013	Sri Krishna Ventures Pvt. Ltd.,	-do-	OIA No. 148/2012 (H-II) S. Tax dt. 27.09.2012
7.	ST/27662/2013	Krishna Developers	Hyderabad – Service Tax	OIO No. 24/2013-Adjn. (ST) Commr. dt. 31.05.2013

Appearance
Shri P. Venkata Prasad, Chartered Accountant for the Appellant.
Shri Bhanu Kiran, Assistant Commissioner (AR) for the Respondent.

Coram:
Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)
Hon'ble Mr. P. VENKATA SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 31/01/2019
Date of Decision: 31/01/2019

FINAL ORDER No. A/30172-30178/2019

[Order per: M.V. Ravindran]

All these appeals are disposed of by a common order as the issue involved in these appeals is identical. The details are as under:

Sl. No.	Appeal No.	Appellant (s)	Respondent (s)
1.	ST/698/2011	Grandeur Homes Pvt. Ltd.,	CCE, C & ST, Hyderabad –II
2.	ST/699/2011	Alpine Estates	-do-
3.	ST/700/2011	Paramount Builders	-do-
4.	ST/701/2011	Modi & Modi Constructions	-do-
5.	ST/702/2011	Greenwood Estates	-do-
6.	ST/252582013	Sri Krishna Ventures Pvt. Ltd.,	-do-
7.	ST/27662/2013	Krishna Developers	Hyderabad – Service Tax

2. The relevant facts that arise for consideration are, the appellants herein are registered with Departmental Authorities for rendering the services under the category of works contract services in respect of Construction of Residential Complex Services, received amounts from their customers during the period January, 2009 to December, 2009 towards sale of land and agreements for construction; they discharged the tax liability on the agreement for constructions and during the period January, 2009 to September, 2009 stopping paying the service tax on the clarification issued by CBEC. Show cause notices were issued to the all the appellants herein demanding the service tax along with interest proposed to imposed penalties. All the appellants contested the show cause notice on merits as well as on limitation. Adjudicating Authority confirmed the demands raised and imposed penalties. On an appeal, the First Appellate Authority after following due process of law, concurred with the views of the Adjudicating Authority and upheld the demands confirmed by the Adjudicating Authority.

3. Learned Counsel appearing on behalf of the all the appellants after drawing our attention to the case records, submits that the issue of service tax levy on the promoters/builders/developers

prior to 01.07.2010 is no more being disputed as the very same issue has been decided by this bench in Final Order No. A/31197/2018 dated 27.08.2018 in the case of *M/s Kolla Developers & Builders* (as reported at [2018 (11) TMI 164 - CESTAT-Hyderabad]) and final order No. A/31630/2018 dated 19.12.2018 in the case of *Mehta & Modi Homes* and Final Order No. A/31615-31616/2018 dated 19.12.2018 in the case of *M/s Vertex Homes Pvt. Ltd*.

4. Learned Departmental Representative on the other hand submits that the tax liability of the services is not disputed by the appellants but they are disputing the discharge of service tax liability based upon CBEC Circular which is incorrect. He reiterated the findings of the lower authorities.

5. On careful consideration of the submissions made by both sides, we find that the facts are not much in disputed and the demand is further period January, 2009 to December, 2009 in some cases June, 2007 to December, 2009 in some cases and June, 2005 to February, 2007 in some cases and in some cases June, 2005 to March, 2008. All these demands are in respect of the service tax liability on the builders for the services provided before 01.07.2010. The self same issue was considered by the Bench in detailed in the case of *M/s Mehta & Modi* Homes and as also in the case of *M/s Kolla Developers & Builders* and held that prior to 01.07.2010 service tax liability will not arise on the builders. We do not find any reason to deviate from such a view already taken on the issue. Accordingly, we hold that all the impugned orders are unsustainable and liable to be set aside and we

do so. The impugned orders are set aside and the appeals are allowed with consequential reliefs, if any.

(Operative portion of this order was pronounced in open court on conclusion of hearing)

P. VENKATA SUBBA RAO
MEMBER (TECHNICAL)

M.V. RAVINDRAN
MEMBER (JUDICIAL)

Lakshmi….