

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD**

Division Bench – Court No. – I

Service Tax Appeal No. 26292 of 2013

(Arising out of Order-in-Appeal No.38/2012 (V-I) ST dt.30.11.2012 passed by
Commissioner of Customs, Central Excise & Service Tax (Appeals), Visakhapatnam)

M/s Sai Sirisha Abodes Pvt Ltd

Flat No.1, Sai Surya Residency, Lalitha Colony,
Dabagardens, Visakhapatnam, AP – 530 020

.....Appellant

VERSUS

**Commissioner of Central Excise &
Service Tax, Visakhapatnam - I**

Port Area, Visakhapatnam,
Andhra Pradesh – 530 035

.....Respondent

Appearance

Shri C.S. Srinivas, Consultant for the Appellant.

Shri B. Subhas Chandra Bose, AR for the Respondent.

Coram:

HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)

HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30551/2025

Date of Hearing: 09.12.2025

Date of Decision: 09.12.2025

[Order per: A.K. JYOTISHI]

M/s Sai Sirisha Abodes Pvt Ltd (hereinafter referred to as the appellant) are in appeal against order of the Commissioner (Appeals) dt.30.11.2012, whereby, demand of Rs.8,50,007/- has been confirmed.

2. The issue, in brief, is that the appellants are engaged in construction of residential complexes and the department felt that they were liable to pay service tax under the category of Works Contract Service (WCS) during the period February, 2009 to September, 2010 in respect of Construction of Complex Service (CCS).

3. Learned Advocate mainly contests that for the period prior to 01.07.2010, the issue is no longer res integra that there will be no service tax liability in respect of services, irrespective of whether they are both under the category of CCS or under the category of WCS. He has relied on the following case laws.

- a. Aditya Homes Pvt Ltd Vs CCE, Hyderabad [2019 (9) TMI 793 – CESTAT Hyderabad]
- b. Ashok Developers Builders Ltd Vs CCE, Hyderabad-I [2020 (34) GSTL 550 (Tri-Hyd)]
- c. Krishna Homes Vs CCE, Bhopal [2014 (34) STR 881 (Tri-Del)]

4. Further, he submits that since these residential complexes were meant for personal use and therefore, on this ground also beyond 01.07.2010, the demand would not sustain as held by the Coordinate Benches of the Tribunal in the following case laws.

- a. Modi Ventures Vs CST, Hyderabad [Final Order No. 30882/2020 dt.03.03.2020]
- b. Modi & Modi Constructions Vs CCE, Hyderabad-II [2021 (45) GSTL 398 (Tri-Hyd)]

5. Further, by way of an alternative argument, he submits that the entire construction was done in terms of work allotted by Andhra Pradesh Government under JNNURM Scheme and therefore, the said work would be exempted in terms of Notification No.28/2010-ST dt.22.06.2010 w.e.f. 01.07.2010. In view of the same, the demand for the period February, 2009 to September, 2010 would not sustain.

6. On the other hand, learned AR reiterates the findings of the Commissioner (Appeals).

7. Heard both sides and perused the records.

8. We find that the issue covered in this appeal lies in a narrow compass. It is not in dispute that the demand for the period prior to 01.07.2010 cannot sustain in view of catena of judgments by the Tribunal including judgments cited by the learned Advocate. Insofar as the period beyond 01.07.2010, it is obvious that these complexes were meant for personal use of the allottees of the flats under JNNURM Scheme. Therefore, it would not be covered within the ambit of the definition of WCS and on this count, the demand would not sustain. Further, even since it is a construction of residential complex under JNNURM Scheme, which is not in dispute as per the documents submitted by the appellant, they would also be entitled for exemption under Notification No.28/2010-ST, supra. Accordingly, the

(3)

demand would not sustain on merit itself and therefore, we are not examining the issue from the angle of limitation.

9. In view of the above, the order of the Commissioner (Appeals) is set aside and the appeal is allowed.

(Dictated and pronounced in the Open Court)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

Veda