IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
EAST REGIONAL BENCH : KOLKATA

S.T.Appeal No.178/10 & CO-52/11

(Arising out of Order-in-Appeal No.07/Slg/2010 dated 22.02.2010 passed by the Commissioner of Central Excise (Appeals), Kolkata)

Commr. of Central Excise, Siliguri

Applicant (s)/Appellant (s)

Vs.

M/s Santalal & Brothers

Respondent (s)

Appearance:

Shri S. S. Chattopadhyay, Supdt. (A.R.) for the Revenue(s)
None for the Respondent (s)

CORAM:
HON'BLE SHRI JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE SHRI C. J. MATHEW, TECHNICAL MEMBER

Date of Hearing : 22.03.2018
Date of Decision : 22.03.2018

ORDER NO.F/O/75631/2018

Per Dr. Satish Chandra.

The present appeal has been filed against the impugned Order-in-Appeal No.07/Slg/2010 dated 22.02.2010 passed by the Commissioner of Central Excise (Appeals), Kolkata.

2. Briefly stated the facts of the case that the service tax is demanded by the Department in relation to the repair of roads undertaken by the respondent, but the Commissioner (Appeals) in his order held that in the category of commercial or industrial construction services as defined in Clause 25 (b) of Section 65 of the Finance Act, 1994, the services provided in respect of roads, airports, railways,

transport terminals etc., are excluded from the payment of service tax. Being aggrieved, the Revenue has filed the present appeal.

3. With this background, we have heard Shri S. S. Chattopadhyay, ld.D.R. for the Revenue and none appeared on behalf of the Respondent-Assessee.

4. After considering the totality of the facts and circumstances of the case, we are of the view that there was no question of payment of service tax in respect of management, maintenance or repair of roads as per Section 97 of the Finance Act, 1994. It may mention here that management and maintenance and repair services has been defined in Clause (64) of Section 65 of the Finance Act, 1994. In the said definition, maintenance or management of immovable property including roads and toll plaza had also been included. Hence, no service tax liability lies in the instant case. Therefore, we find no reason to interfere with the impugned order, which is hereby sustained along with the reasons mentioned therein.

5. In the result, the appeal filed by the Revenue is dismissed. Cross Objection also gets disposed off.

(Dictated and pronounced in the open court.)

Sd/
(C.J.Mathew)
Member (Technical)

Sd/
(Justice Dr. Satish Chandra)
President

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