

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA**

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No.56 of 2010

(Arising out of Order-in-Appeal No.46/ST/09 dated 03.12.2009 passed by
Commissioner (Appeals) of Central Excise, Kolkata)

M/s Bina Cement Works

Amtala, Baruipur Road, P.O.Kanyanagar, Dist.24 Parganas (South) W.B.

Appellant

VERSUS

Commissioner of Service Tax, Kolkata

180, Shantipally, Rajdanga Main Road, Kolkata-700107

Respondent

APPEARANCE :

None for the Appellant

Shri J.Chattopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO...75895/2023

DATE OF HEARING : 20 .06.2023

DATE OF DECISION : 20 .06.2023

Per Ashok Jindal :

The appellant has filed this appeal against the impugned order wherein differential demand of service tax has been confirmed against the appellant alleging that as per their financial records, the appellant has realized an amount of Rs.73,26,161/- from their principal, but not paid the service tax during the period 01.04.2005 to 30.09.2005.

2. The proceeding were initiated against the appellant and differential demand of service tax was confirmed.

3. Against the said order, the appellant is before us.

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4. None appeared on behalf of the appellants. Nor any request for adjournment has been made.
5. Considering the facts that the present appeal pertains to the year 2010, therefore, the same is taken up for consideration.
6. The Id.A.R. for the Revenue reiterated the findings of the impugned order.
7. On perusal of records, we find that during the impugned period, the service tax was payable on the amount realized and the appellant is claiming that they have paid service tax on the amount realized by them during the impugned period and the amount to be realized for the service provided the Banks of Account of the service provided by them, but also actual amount received for the service provided.
8. In that circumstances, the matter needs co-relation at the end of the adjudicating authority. Therefore, we remand the matter back to the Adjudicating Authority to ascertain from the records that how much amount is realized by the appellant during the impugned period for computation of demand of service tax.
9. Thereafter, the Adjudicating Authority is directed to pass a proper order in accordance with law.
10. In view of the above, by setting aside the impugned order, the appeal is allowed by way of remand.

(Dictated and pronounced in the open court)

Sd/-
(Ashok Jindal)
Member (Judicial)

Sd/-
(K.Anpazhakan)

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Member (Technical)

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