

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

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No.3 of 2012

(On behalf of Revenue)

(Arising out of Order-in-Original No.21/Commr./ST/Kol/2011-12 dated 14.09.2011 passed by Commissioner of Service Tax, Kolkata)

Commissioner of Service Tax, Kolkata

180, Shantipally, Rajdanga Main Road, Kolkata-700107

Appellant

VERSUS

M/s Debsharma Construction Company

P.O. Sarisa, Dist.-24 Parganas (South), West Bengal

Respondent

APPEARANCE :

Shri P.K.Ghosh, Authorised Representative for the Appellant
None for the Respondent

CORAM:

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

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

FINAL ORDER NO...76556/2023

DATE OF HEARING : 29.08.2023

DATE OF DECISION : 29.08.2023

Per Ashok Jindal :

The Revenue is in appeal against the impugned order.

2. The facts of the case are that the respondents were engaged in the activity of management, maintenance and repair services for repair and maintenance of road to National Highway Authority of India during the period from 16.06.2005 to 26.07.2009. Against the impugned order, the demand of service tax has been confirmed.

3. Against the same impugned order, the respondent has also filed an appeal before this Tribunal and this Tribunal has disposed off the appeal filed by the respondent vide Final Order No.76387/2023 dated

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04.08.2023 wherein it was held by this Tribunal that in terms of Section 97 of the Finance Act, 2012, an amendment was brought not to levy of service tax for repair or maintenance of roads, bridges etc. during the period 16.06.2005 to 26.07.2009 and the demands against the respondent have been dropped vide Final Order No.76387/2023 dated 04.08.2023 passed by this Tribunal.

4. In view of the decision of this Tribunal in the respondent's own case against the same impugned order, we hold that the appeal filed by the Revenue is not maintainable and accordingly, the same is dismissed.

(The operative part of the order was pronounced in the open court.)

Sd/-
(Ashok Jindal)
Member (Judicial)

Sd/-
(K.Anpazhakan)
Member (Technical)

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