IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Service Tax No. 77076 of 2017

(Arising out of Order-in-Appeal No.19/ST/BBSR-GST/2017 dated 19.09.2017 passed by Commissioner of CGST, Service Tax & Central Excise, Bubaneswar)

Bridge & Roof Co. (India) Limited, **: Appellant**
5th Floor, "Kankaria Centre, 2/1, Russel Street, Kolkata-700071.

VERSUS

Commissioner of CGST & CX, Bhubaneswar **: Respondent**
C.R.Building, Rajaswa Vihar, Bhubaneswar-751007.

APPEARANCE:

Shri Tarun Chatterjee, Advocate & Ms. Sneha Das, Consultant for the Appellant

Shri S.K.Dikshit, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 75104/ 2026

DATE OF HEARING :15.01.2026

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Order : [Per Shri Ashok Jindal]

The appellant is in appeal against the impugned order.

2. The facts of the case are that the appellant is engaged in design, fabrication and erection of 'crude oil storage tank' at Paradip refinery project for Indian Oil Corporation Limited. The appellant has classified the service under the category of 'Erection, Commissioning or Installation service' the appellant paid service tax after taking exemption in terms of notification number 1/2006, dated 01.03.2006. Some free material were supplied by IOCL to appellant for execution of their work.

3. Revenue is of the view that free supplies made by the IOCL to the appellant are required to be added in the taxable value of services. Therefore, Revenue approach to the IOCL service recipient to pay the Service Tax on free supplies of material by them as per the agreement whatever Service Tax is payable that is to be borne by the service recipient. The IOCL paid Service Tax on free supplies of the material on behalf of the appellant. Thereafter, a notice was issued to the appellant on 10.01.2013 for recovery of interest of delayed payment of Service Tax on account of free supplies to the material by IOCL to the appellant for execution of the work. The said order was challenged by the appellant before the Hon'ble High court and during the pendency of the matter before the Hon'ble High Court the Revenue approach to the IOCL invoking Section 87 of the Finance Act, 1994 and recovered the interest also. Thereafter, the Hon'ble High Court disposed of the petition and asked them to approach before the appropriate authority for the remedy. The appellant approached to the Ld. Commissioner (Appeal) who dismissed the appeal. Therefore, the appellant is before us.

4. Heard the parties. Considered the submissions.

5. On hearing the parties we find that find that short issue involved in this matter is that whether free supply of material by the service recipient to the appellant is to be added to the taxable value or not. We find that the said issue has been settled by the Hon'ble Apex Court in the case of Bhayana Builders Pvt. Ltd. vs. CST-2013(32) S.T.R. 49 (Tri-LB) wherein it has been held that free supply of materials is not required to be adding in the taxable value of the service provided by the service

recipient. In view of that we hold that on free supply of IOCL to the appellant no service tax is payable. Consequently, no interest is payable by the appellant. In that view whatever amount has been paid by IOCL on behalf of the appellant is required to be refunded.

6. In view of this we dispose of this appeal.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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