

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, WEST ZONAL BENCH AT MUMBAI
COURT NO. I**

APPEAL NO. ST/87407 to 87411 /13

(Arising out of Order-in-Appeal No. AV(75-79)49,50,51,52,53/2013 dated 12.03.2013 passed by the Commissioner of Central Excise & Customs (Appeals), Aurangabad.)

M/s Priyheer Infrastructure Pvt. Ltd.

Appellant

Vs.

Commissioner of Central Excise, Aurangabad

Respondent

Appearance:

Shri S S Gupta, Chartered Accountant

for Appellant

Shri M P Damle, Assistant Commissioner (AR)

for Respondent

CORAM:

HON'BLE SHRI S K MOHANTY, MEMBER (JUDICIAL)

HON'BLE SHRI C J MATHEW, MEMBER (TECHNICAL)

Date of Hearing: 03.04.2018

Date of Decision: 03.04.2018

ORDER NO. A/85938-85942/2018

Per: S K Mohanty

Heard both sides.

2. The issue involved in all these appeals is identical. Accordingly, the same are taken up for hearing together and a common order is being passed.

3. Levy of Service Tax on “Renting of Immovable Property Service”, is the subject matter of present dispute. We find that the Hon'ble Supreme Court, in the case of Home Solutions Retails (India) Ltd., has granted leave in the petition for Special Leave to Appeal (Civil) No. 27636 of 2011, filed against the judgment and order dated 23.09.2011 of the Hon'ble Delhi High Court.

4. Since the issue is pending before the Hon'ble Supreme Court, we are of the view that it will not be appropriate to decide the merits of the case at this juncture. We also find that in an identical situation, this Tribunal vide final Order No. A/89363/17/STB dated 30.08.2017, in the case of Motiwala Square, has remanded the matter to the Adjudicating Authority for deciding the issue afresh, after disposal of the SLP by the Hon'ble Supreme Court.

5. Therefore, we set aside the impugned orders and remand the matter to the adjudicating authority for passing fresh adjudication orders, after ascertaining the outcome of the SLP pending before the Hon'ble Supreme Court.

6. In the result, all the appeals are allowed by way of remand to the Adjudicating Authority.

(Operative portion of the order pronounced in open Court)

(C J Mathew)
Member (Technical)

(S K Mohanty)
Member (Judicial)