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

APPEAL NO. ST/85075/15

(Arising out of Order-in-Original No. 90/ST-II/RS/2014 dated 30.09.2014 passed by the Commissioner of Service Tax-II, Mumbai)

M/s Runwal Developers Pvt. Ltd. Appellant

Vs.

Commissioner of Service Tax, Mumbai-II Respondent

Appearance:

None for Appellant
Shri M K Sarangi, Additional 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/85943/2018

Per: S K Mohanty

Heard both sides.

2. 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.

3. 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.

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

5. In the result, the appeal is 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)

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