(2014) 07 CESTAT CK 0012

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Miscellaneous Application No. 60610 Of 2013, Service Tax Appeal No. 236 Of 2008

?B.L. Gupta Construction Pvt. Ltd. APPELLANT

Vs

C.S.T., Delhi RESPONDENT

Date of Decision : 21-07-2014

Acts Referred:

Citation : (2014) 07 CESTAT CK 0012

Hon'ble Judges : G. Raghuram, J;R. K. Singh, Technical Member

Bench : Division Bench

Advocate : Kamal Gupta, J.K. Mittal And Co., Amresh Jain

Final Decision : Allowed

Judgement

1. The application is filed seeking early hearing of the appeal preferred in 2008 against the adjudication order dated 8.1.2008 passed by the

Commissioner of Service Tax, New Delhi. As the issue involved in the present appeal is covered by the Larger Bench decision of this Tribunal in

Bhayana Builders (P) Ltd. vs. Commissioner of Service Tax, Delhi - 2013 (32) STR 49 we take up the main appeal itself for disposal.

2. The impugned order (passed by the adjudicating authority) confirmed service tax demand of Rs.1,68,49,508/-, apart from interest and penalty as

specified in the order, on the ground that the appellant during 10.9.2004 to 31.3.2006 provided â??commercial or industrial constructionâ? and

â??construction of complexâ? services to several recipients; remitted service tax on the consideration received for the rendition of such services after

availing the benefit of exemption Notification No.15/2004-ST dated 10.9.2004 as amended by Notification No.18/2005-ST dated 7.6.2005 but failed to include the value of the goods/material supplied free of cost by service recipients to the appellant/service provider, for incorporation into constructions

executed by the appellant for favour of recipients. The value of such free goods was the taxable value considered for confirmation of the demand.

3. This very issue stands concluded by the judgment of the Tribunal in Bhayana Builders (P) Ltd. That this is so is not disputed by the ld. A.R. for

Revenue. In the circumstances, the appeal is allowed. The impugned order passed by the Commissioner of Service Tax, Delhi is quashed. The

appellant shall be entitled to refund of the amount deposited, pursuant to initiation of proceedings and confirmation of the demand and as was

appropriated by the impugned order, expeditiously. No costs.