(2024) 01 CESTAT CK 0062

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Service Tax Appeal No. 70960, 70974 Of 2013

Chandan Sengupta And Others APPELLANT

Vs

Commissioner Of Central Excise & Service Tax, Shillong RESPONDENT

Date of Decision : 23-01-2024

Acts Referred:

Citation : (2024) 01 CESTAT CK 0062

Hon'ble Judges : Ashok Jindal, Member(J);K. Anpazhakan, Member(T)

Bench : Division Bench

Advocate : Nihar Dasgupta, S.Mukhopadhyay

Final Decision : Allowed

Judgement

Ashok Jindal, Member (J)

1. The appellants are in appeal against the impugned orders, wherein service tax was demanded from them under the category of 'Erection, Commissioning and Installation Services'.

2. The facts of the case are that the appellants were awarded contract by National Building Construction Corporation (NBCC) to execute the construction of link road/PWD road from B.P. No.1153. Revenue is of the view that the appellants are providing 'Erection, Commissioning and Installation Services', therefore, show cause notice has been issued to demand Service Tax on their activity of fencing the Indian border. The matter was adjudicated, demand of Service Tax was confirmed against the appellants. Against the said order, the appellants are before us.

3. Heard the parties.

4. Considering the fact that on similar set of facts this Tribunal has decided the issue in the case of Mackintosh Burn Ltd. & Ors. v. Commissioner of Central Excise & Service Tax, Shillong vide Final Order No.FO/A/75044-75094/2015 dated 13.02.2015 holding that the said activity is not covered under the category

of ‘Erection, Commissioning & Installation Services’. Therefore, following the precedent decision of this Tribunal cited hereinabove, we hold that the appellants are not liable to pay Service Tax under the category of ‘Erection, Commissioning & Installation Services’. Accordingly, the impugned demand confirmed against the appellants are failed.

5. In that circumstances, we set aside the impugned orders and allow the appeals with consequential relief to the appellants, if any.

