

IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL  
SOUTH ZONAL BENCH, CHENNAI

Appeal Nos. ST/536, 537, 547 and 548/2012

(Arising out of Order-in-Appeal No. 157 to 162/2012 dated 26.6.2012 passed by the Commissioner of Central Excise (Appeals), Madurai)

For approval and signature:

Honble Shri Ashok Jindal, Judicial Member

1. Whether Press Reporters may be allowed to see the Order for Publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?

2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?

3. Whether the Members wish to see the fair copy of the Order?

4. Whether Order is to be circulated to the Departmental authorities?

1. P. Raman

2. O. thavamani

3. S. Pethu Reddiar

4. S. Pethu Reddiar

Appellants

Vs.

CCE, Madurai

Respondent

Appearance

None for the Appellants

Shri K.S.V.V. Prasad, SDR for the Respondent

CORAM

Honble Shri Ashok Jindal, Judicial Member

Date of Hearing: 06.09.2012

Date of Decision: 06.09.2012

Final Order Nos. \_\_\_\_\_

Per Ashok Jindal

1. Despite notice none appeared nor have any requests for adjournment been received. As the issue involved is of narrow compass, therefore all the appeals are taken up together for final disposal.

2. Perused the records and heard the learned SDR. The facts of the case are that the appellants are engaged in the activity of construction of complex for BSNL. Revenue is of the view that the said activity is to be taxed under the category of "Commercial and Industrial Construction Services". The contention of the appellant is that they are covered under Works & Contract service. Therefore, they are not liable to pay service tax prior to 1.6.2007. A show-cause notice was issued involving extended period of limitation and thereafter adjudication took place and it was held that the appellants are liable to pay service tax under "Commercial and Industrial Constructions Services". The said order was challenged before the first

appellate authority who held that appellants are liable to pay service tax under Works Contract with effect from 1.6.2007 and also held that as the appellants did not take any steps themselves to get registered under Works Contract Services, therefore extended period of limitation is invocable as well as they are liable to pay penalty also. The appellants are aggrieved only on the part of the order wherein extended period of limitation has been invoked and penalties are also confirmed against the appellants. The ground of the appellants is that benefit under Section 80 of the Finance Act, 1994 be extended to them.

3. Considered the pleas taken by the appellants in their appeals and the argument advanced by the learned SDR. It is an admitted fact that the appellants are liable to pay service tax under Works Contract services with effect from 1.6.2007 and the appellants did not get themselves registered with the service tax department from 1.6.2007. The ground taken by the appellants is that they were not aware of the fact that they are liable to pay service tax under works contract with effect from 1.6.2007 is not sustainable, as ignorance of law is not an excuse. Further, the activity of the appellants has been detected by the Department during the course of investigation. Therefore, I do agree with the findings of the first appellate authority for invoking extended period of limitation. Therefore, I do not find any infirmity in the impugned orders and the same are upheld and the appeals filed by the appellants are dismissed.

(Dictated and pronounced in open court)

(Ashok Jindal)

Judicial Member

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