IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CENTRAL EXCISE APPEAL NO. 1 OF 2015

M/s. Shree Consultants
-vs-
The Union of India and others

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. Rahul D. Dhande, counsel for the appellant.
Mr. S.N.Bhattad, counsel for the respondents.

CORAM : SMT. VASANTI A NAIK & KUM. INDIRA JAIN, JJ.

DATE : 17.10.2016.

By this central excise appeal, the appellant-assessee challenges the order of the Customs, Excise and Service Tax Appellate Tribunal, dated 20/06/2014, dismissing the appeal filed by the appellant and upholding the order of the Commissioner (Appeals) that had upheld the demand of services tax.

The appellant-assessee, a certified government contractor had undertaken the contract for various irrigation projects. As per the said contracts, the appellant-assessee was liable to perform the work of survey design, preparation of plan and estimate for the projects. According to the appellant-assessee, the appellant had carried out the work of survey and map making for certain projects for which the agreement was signed in the year 2002, that is before the inclusion of the services of survey and map making in the services tax net from 16/06/2005. The appellant-assessee was directed to pay the services tax for the survey and map making services for the period before 16/06/2005 and after 16/06/2005. The appellant-assessee challenged the said demand notice before the Commissioner (Appeals). The Commissioner (Appeals) partly allowed the appeal filed by the assessee and directed that the appellant was not liable to pay service tax in respect of survey and map making services before 16/06/2005 as such services were liable to be taxed only with effect from 16/06/2005 and not earlier. The Commissioner (Appeals), therefore, set aside the order in respect of the period before 16/06/2005 and asked the appellant to quantify the services that were rendered before 16/06/2005. The Commissioner (Appeals), however, upheld the demand notice, so far as it pertained to the services of survey and map making, rendered by the appellant after 16/06/2005. The order of the Commissioner (Appeals) was challenged by the appellant before the Customs, Excise and Sales Tax Appellate Tribunal. The tribunal by the order dated 20/06/2014 upheld the order of the Commissioner (Appeals). The order of the tribunal is challenged by the appellant in this central excise appeal.

On hearing the learned counsel for the parties and on a perusal of the order of the tribunal as also the order of the Commissioner (Appeals), it appears that there is no scope for interference with the order of the tribunal in this appeal. Till 16/06/2005, the services of survey and map making were not brought under the service tax net and the Commissioner (Appeals) as well as the tribunal rightly held that for the survey and map making work carried out by the appellant before 16/06/2005, the liability to pay the service tax could not have been fastened upon the appellant. However, in respect of the services of survey design and map making for the projects, that were carried out by the appellant after 16/06/2005, the appellant was liable to pay the service tax, as the entry was inserted in the statute book, fastening the liability to pay the service tax for the aforesaid services, from 16/06/2005. It is stated on behalf of the respondents that after the Commissioner (Appeals) partly allowed the appeal filed by the appellant, the amount that was liable to be refunded to the appellant for the services that were rendered by the appellant prior to 16/06/2005 was quantified and the said amount is refunded to the appellant. If that be so, we do not find any illegality in the order of the Commissioner (Appeals) or the tribunal upholding the order/notice fastening the service tax liability on the appellant for the survey mapping services carried out by the appellant for the various projects after 16/06/2005.

Since the findings recorded by the tribunal are just and proper and since no substantial question of law arises in this central excise appeal, we dismiss the appeal with no order as to costs.

JUDGE **JUDGE**

KHUNTE