IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

STA No. 35 of 2015 (O&M)
Date of decision: 29.9.2016

Madhukar Mittal

.. Appellant

v.

Commissioner of Central Excise

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Jagmohan Bansal, Advocate for the appellant.
Mr. Tajender K. Joshi, Advocate for the respondent.

...

Rajesh Bindal J.

This order will dispose of two appeals bearing STA Nos. 35 of 2015 and 15 of 2016, as the issue involved in both the appeals is common.

The assessee carried out construction work as a works contractor for Haryana Housing Board for the period from 13.3.2006 to 13.10.2008. The issue raised is regarding taxability of the composite construction contract, as the contract entered into by the assessee with Haryana Housing Board included the material as well. The order was passed by the Customs, Excise, Service Tax Appellate Tribunal, New Delhi (for short, 'the Tribunal') before Hon'ble the Supreme Court had gone into the issue in Commissioner of Central Excise and Customs, Kerala v. M/s Larsen and Toubro Ltd., (2016) 1 SCC 170, wherein it was opined that before

1.6.2007, no service tax is leviable on indivisible works contracts. As the judgment of Hon'ble the Supreme Court came subsequent to the order passed by the Tribunal, in our view, that aspect is required to be considered by the Tribunal, hence, the matter deserves to be remitted back.

Accordingly, the impugned order passed by the Tribunal is set aside. The matter is remitted back to the Tribunal for fresh decision. The parties are directed to appear before the Tribunal on 20.10.2016. They shall be at liberty to raise all the issues in the appeal before the Tribunal.

The appeals stand disposed of accordingly.

(Rajesh Bindal)
Judge

(Darshan Singh)
Judge

29.9.2016
mk

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No