M/s. PRK Interiors Pvt. Ltd. Vs Commissioner of Service Tax New Delhi

Service Tax Appeal No. 553 Of 2009

Court: Customs, Excise And Service Tax Appellate Tribunal Principal Bench, New Delhi

Date of Decision: Sept. 11, 2014

Hon'ble Judges: Archana Wadhwa, J; Rakesh Kumar, Technical Member

Bench: Division Bench

Advocate: S.K. Pahwa, Amreesh Jain

Final Decision: Allowed

Judgement

1. After hearing both sides, we find that appellants are interior contractors and registered with the Service Tax department for payment of service tax.

The dispute in the present appeal relates to the value of services which are liable to be taxed. The Revenue authorities have determined the service

tax on the full value of the service tax contract whereas the appellantsÃ¢â‚¬â„¢ contention is that the same is liable to be paid only on the value of service

by excluding the cost of the material used, as also by including the free supplied material.

2. We find that both sides agree that the issue stand decided. The HonÃ¢â‚¬â„¢ble High Court of Delhi in the case of G D Builders vs. Union of India

[2013 (32) STR 673 (Del)] has held that service tax is liable only on the value of the Services and the same cannot be held to be inclusive of cost of

the material so used. As such, the cost of the material is required to be excluded, for which purpose the matter is remanded. It is open for the

appellant to produce evidence as regards the cost of the material so used.

3. Similarly, the Tribunal in the case of Bhayana Builders (P) Ltd. vs. Commissioner of Service Tax, Delhi [2013 (32) STR 49] has held that the value

of free supplied items are not required to be included in the value of service. Keeping in view all the above, the matter is remanded. Lower authorities

will quantify the value of the goods as per declaration of law. The appeal is allowed by way of remand.

(Dictated and pronounced and in the open court)