

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEALS NOS. 4965-4966 OF 2016

COMMISSIONER OF CENTRAL EXCISE  
CUSTOMS AND SERVICE TAX

... Appellant(s)

VERSUS

BGR MINING & INFR. PVT. LTD.

... Respondent(s)

WITH

CIVIL APPEAL NO. 16991 OF 2017

O R D E R

Civil Appeal Nos. 4965-4966 of 2016

The question raised in these appeals stands covered by the judgment of this Court delivered on 19<sup>th</sup> February, 2018 in '*Commissioner of Service Tax etc. v. M/s. Bhayana Builders (P) Ltd. Etc.* [Civil Appeal Nos. 1335-1358 of 2015].

These appeals are, accordingly, dismissed.

Civil Appeal No. 16991 of 2017

Two issues are raised in this appeal. The first issue pertains to the coverage of the respondent under the Service Tax Act. As per the Department, the respondent is undertaking the activities of excavation and removal of overburden/waste rock/ secondary ore by the assessee at the

mines of M/s. Hindustan Zinc Ltd. and the question raised is as to whether these activities during the period from 16.06.2005 to 30.11.2007 were covered under the 'Site Formation, Clearance, Excavation, Earthmoving and Demolition Services' under Section 65(97a) of the Finance Act, 1994.

Mr. Lakshmikumaran, learned counsel appearing for the respondent, fairly accepts that insofar as this issue is concerned, it is yet to be decided.

The second issue pertains to valuation of the service tax, which is covered by judgment dated 19<sup>th</sup> February, 2018 in 'Commissioner of Service Tax etc. v. M/s. Bhayana Builders (P) Ltd. Etc. [Civil Appeal Nos. 1335-1358 of 2015], and decided in favour of the respondent.

On the first issue, let the matter be tagged along with Civil Appeal Nos. 3987-3988 of 2009.

....., J.  
[ A.K. SIKRI ]

....., J.  
[ ASHOK BHUSHAN ]

New Delhi;  
March 05, 2018.

ITEM NO.61

COURT NO.6

SECTION XIV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal Nos. 4965-4966/2016

COMMISSIONER OF CENTRAL EXCISE CUSTOMS  
AND SERVICE TAX

Appellant(s)

VERSUS

BGR MINING & INFR. PVT. LTD.

Respondent(s)

WITH

Civil Appeal No. 16991/2017 (XIV)

Date : 05-03-2018 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Appellant(s)

Mr. K. Radhakrishnan, Sr. Adv.  
Ms. Shirin Khajuria, Adv.  
Ms. B. Sunita Rao, Adv.  
Mr. Anurag, Adv.  
Ms. Ayushi Gaur, Adv.  
Ms. Nisha Bagchi, Adv.  
Mr. Rajiv Nanda, Adv.  
Mr. Rupesh Kumar, Adv.  
Ms. Sanskriti Bhardwaj, Adv.  
Mr. B. Krishna Prasad, AOR

For Respondent(s)

Mr. Pramod B. Agarwala, AOR  
Mr. R. Parthasarathy, AOR  
Mr. Rajiv Shankar Dvivedi, AOR  
Mr. J. K. Mittal, Adv.  
Mr. Praveen Swarup, AOR  
Mr. V. Lakshmikumaran, Adv.  
Mr. L. Badri Narayanan, Adv.  
Mr. Aditya Bhattacharya, Adv.  
Mr. Victor Das, Adv.  
Ms. Apeksha Mehta, Adv.

CIVIL APPEALS NOS. 4965-4966 OF 2016

Mr. Punit Dutt Tyagi, AOR

Mr. Mohinder Jit Singh, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Civil Appeal Nos. 4965-4966 of 2016 are dismissed in terms of the signed order.

Civil Appeal No. 16991 of 2017 is tagged along with Civil Appeal Nos. 3987-3988 of 2009 in terms of the signed order.

(NIDHI AHUJA)  
COURT MASTER

(MALA KUMARI SHARMA)  
COURT MASTER

[Signed order is placed on the file.]