

GST/Service Tax: Where assessee was issued a work order for levelling of agricultural land including filling of gorges/nallah, etc. and High Court held that activities undertaken by assessee were covered under section 65(97a) of Finance Act, 1994 and Supreme Court dismissed SLP filed by assessee, review petition filed by assessee had no merits and required to be dismissed

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[2018] 95 taxmann.com 30 (SC)

SUPREME COURT OF INDIA

NKG Infrastructure Ltd.

v.

Commissioner of Customs, Central Excise and Service Tax Ghaziabad*

MADAN B. LOKUR AND ADARSH KUMAR GOEAL, JJ.

REVIEW PETITION (C) NO. 782 OF 2018

SPECIAL LEAVE PETITION (C) NO. 34907 OF 2016†

MARCH 27, 2018

Classification of services (OR) - Section [65\(97a\)](#) of the Finance Act, 1994 - Site formation and clearance, excavation and earth moving and demolition - Assessment years 2006-07 to 2008-09 - Assessee was engaged in business of construction and implementation of various maintenance projects including widening and carpeting of roads, etc. - One 'S' engaged in development of residential and other buildings, colonies and township issued a work order to assessee for levelling of agriculture land including filing of gorges/nallah, removing shrubs, grass and rubbish, etc. - 'S' made payments to assessee for work order and assessee issued bill/receipts to 'S' for same - Assessee claimed exemption from service tax on said work - Adjudicating Authority disallowed assessee's claim for exemption and confirmed demand of service tax - High Court held that activities undertaken by assessee were covered under section 65(97a) and they were not exempted from service tax - Supreme Court dismissed SLP filed against judgment of High Court - Assessee filed review petition seeking review of judgment of Supreme Court - Whether since there was no merit in review petition, same was liable to be dismissed - Held, yes [Para 1] [In favour of revenue]

CASE REVIEW

NKG Infrastructure Ltd. v. CC, CE & ST [\[2017\] 77 taxmann.com 69 \(SC\)](#) affirmed.

ORDER

1. We have carefully gone through the review petition and the connected papers. We find no merit in the review petition and the same is accordingly dismissed.

ORDER

1. The review petition is dismissed in terms of the signed order.

s.k. jain

*In favour of revenue.

†Review petition arising out of Judgment of Supreme Court in case of *NKG Infrastructure Ltd. v. Commissioner of Customs* [\[2017\] 77 taxmann.com 69](#).