

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST ZONAL BENCH : AHMEDABAD**

REGIONAL BENCH : COURT NO - 3

Service Tax Appeal No. 321 of 2011-DB

(Arising out of OIA No. RKA/44/SRT-I/2011 dated 31.01.2011 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-SURAT-I)

Purvi Electricals

...Appellant

102, Queen Place, Near Gokul Raw House,
Parle Point,
Surat
Gujarat
395007.

-Versus-

C.C.E. & S.T.- Surat-i

...Respondent

New Building...Opp. Gandhi Baug,
Chowk Bazar,
Surat,
Gujarat
395001

Present For the Appellant : Shri Jigar Shah, Adv.

Present For the Respondent : Shri S.N. Gohil, Superintendent, Authorised Representative

CORAM:

HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR

HON'BLE MEMBER (TECHNICAL), MR. RAJU

FINAL ORDER NO. A/ 11960 /2019

Date of Hearing: 01/10/2019

Date of Decision: 01/10/2019

RAMESH NAIR

The brief facts of the case are that the appellant have undertaken the electrical installation during the construction of a building. Demand was confirmed under the head of "Construction of a Complex Service".

2. Shri Jigar Shah, learned Counsel appearing on behalf of the appellant made various submissions such as their service does not fall under "Construction Services" whereas the same is under "Erection and Installation". He also submits that since the work was undertaken along with the materia, it otherwise covered under "Works Contract Service". The classification was wrongly done by the lower authorities. He has shown us some invoices claiming that job was done with the material. Therefore, it clarified as "Work's Contract Service".

3. Shri S.N. Gohil, learned Authorized Representative appearing on behalf of the Revenue reiterates the findings of the impugned order.

3. We have heard both sides and perused the records. We find that the learned counsel has strongly claimed that the service was provided along with material and is classified as a "Works Contract Services". However, to decide that whether service falls under works contract, various parameters and aspects have to be examined such as service was performed along with the material, etc. which is a matter of verification and the same can be done by the departmental authorities. We keep all the issues open. The impugned order is set aside. Appeal is allowed by way of remand to the Adjudicating Authority. Since the matter is very old, relates to year 2005-2007, order may be passed within 3 months from the date of this order.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)

Diksha