Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad

REGIONAL BENCH-COURT NO. 3

Service Tax Appeal No. 11086 of 2016- DB

(Arising out of OIA-AHM-SVTAX-000-APP-131-15-16 dated 27/01/2016 passed by Commissioner (Appeals) Service Tax - Ahmedabad)

Electro Service .... **Appellant**
Badami Kosla Compound,
Opp. Municipal Industrial Estate,
Ahmedabad, Gujarat

VERSUS

Commissioner of CGST &
Central Excise, Ahmedabad South ......**Respondent**
7th Floor, Central Excise Bhawan, Nr. Polytechnic
Central Excise Bhavan, Ambawadi,
Ahmedabad, Gujarat-380015

APPEARANCE:
Shri Hardik Modh, Advocate for the Appellant
Shri P Ganesan, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA
HON'BLE MEMBER (TECHNICAL), MR. SATENDRA VIKRAM SINGH

Final Order No. 10300/2025

DATE OF HEARING: 15.04.2025
DATE OF DECISION: 15.04.2025

SOMESH ARORA

In this matter, department has sought to tax "Management, Maintenance or Repair Service" provided by the appellants which were in the nature of Rewinding and Repairing of Electrical Motors, during the relevant period which was not post 2007, when the 'works contract service' had also come into existence. Department initially considered the service as "Management, Maintenance or Repair Service" and sought recovery of service tax. The same was done on the invoice value which were of two types, one those which were not indicating separately the value of the goods involved and secondly, those which were indicating them separately. The department is of the view that total value is taxable including the invoices which show the value of goods separately.

2. At this stage, the learned Advocate for the appellant, takes us through various case laws and makes the claim that firstly the service value has to be exclusive of goods either on actual cost or notional basis, as per the law which has evolved, for the period 2009-10 to 2013. He was also of the view that Apex Court decision in L&T case reported in 2014 (34) STR 481 (SC), on works contract has clearly held that the department has right to tax, only the service value and not the value of the goods and the same needs exclusion either on notional or actual basis. The law has evolved considerably and they have separate claims to make is in respect of 'Works Contract Service' also as there was transfer of goods taking place which is now under the works contract service.

3. The Learned AR points out that though the decisions as have been relied upon by the party were not available, still the department is within its right, as at the relevant time "Management, Maintenance or Repair Service" also existed which was more specific service than the 'works contract service' as claimed by the party.

3.1 He therefore agrees that the matter deserves to be remanded to the adjudicating authority, to have fresh look including all the judgments on 'works contract service' and "Management, Maintenance or Repair Service" which have been coming forth, right from the Apex Court. And also, as to what will be the status in a situation in which the appellants have some of the invoices which indicate value of the goods separately while others do not have such separate value of the goods. Also, if value of the goods will be excluded as is the requirement of L & T case (cited supra), on what basis?

4. We therefore, deem it fit that the matter should be remanded openly both on the issue of classification as well as valuation. The appellant shall be at liberty to plead alternate classification as well as valuation and on the basis of the same, as per various Notifications which were in existence during the relevant period and the deductions which may or may not in the peculiar

circumstances of the matter, be available. The matter is therefore remanded with directions to the adjudicating authority to expeditiously decide the same, as the matter is fairly old. *Inter alia*, the adjudicating authority shall also examine as to what is the status of the goods and whether the tax has been paid on them as per the VAT law or not? Appeal remanded.

5. Appeal allowed by way of remand.

(Dictated and pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha