

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

REGIONAL BENCH- COURT NO.1

Service Tax Appeal No. 10136 of 2023

(Arising out of OIA No. RAJ-EXCUS-000-APP-359-360-2022 dated 31.10.2022 passed by Commissioner (Appeals)-Rajkot)

Gujarat State Electricity Corporation Limited **...Appellant**
Admin Building GSECL Colony Sikka
Jamnagar, Gujarat-361141

VERSUS

C.C.E. & S.T.-Rajkot **...Respondent**
Central Excise Bhavan,
Rajkot-Gujarat-360001

APPEARANCE:

Ms. Neeta Ladha, Chartered Accountant, appeared for the Appellant
Smt. Sunita Menon, Superintendent (AR) appeared for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA

FINAL ORDER NO. 11412 /2025

DATE OF HEARING: 08.12.2025
DATE OF DECISION:08.12.2025

SOMESH ARORA

The appellant is a public sector undertaking. In the present show cause notice which involves the period from 2015-16 to 2016-17 was issued to it. Penalty under Section 78 of the Finance Act, 1994 was imposed on them on supervision charges which had been shown in the balance sheet for the impugned period under the head of miscellaneous receipts. A contract was entered by them with M/s BHEL for setting up and maintenance of Thermal Power Station at Sikka. Learned Chartered Accountant seeks to rely on the decision of Hon'ble Bombay High Court in the case of Commissioner of CGST & Central Excise, Thane vs Tharwani Infrastructures in Appeal (L) No. 32228 of 2023 dated 08.03.2024 (2024 (20) CENTAX 127 (Bom.)). The relevant paras 20, 21 are reproduced below:

“20. Thus, evasion is one of the basic requirements for applicability of the extended period under the proviso to sub-section (1) and also in regard to applicability of sub-section (4) of Section 73 of the Finance Act, 1994.

21. It is not in doubt that Respondent, much prior to the issuance of the show cause notice, paid the service tax as also the interest thereon as already noted by us. If this be the case, certainly, the designated officer was not correct in issuing a show cause notice to pass the Order-in-Original. It has been rightly interfered by the Tribunal observing that the department was not justified in invoking the extended period in the present case, and, more particularly, when the entire service tax as also the interest was paid prior to the issuance of the show cause notice, clearly indicating that there was no intention of the Respondent to evade payment of service tax.”

2. She also seeks to rely on the decision in their own case delivered by the Division Bench of this Tribunal in the case of GSEC Limited Vs CCE Surat-I vide Final Order No. 12779/2024 in which this Tribunal in para 8 observes as follows:

“8.....Moreover, the appellant is a government corporation and there cannot be any malafide intention to evade service tax. Therefore, the extended period is not invocable in the fact of the present case. Hence, the demand is also not sustainable on the ground of time bar.”

3. She thus pleaded that the extended period in the case of GSEC Limited which is a Public Sector Undertaking and when even the receiver was a Public Sector Undertaking required a greater degree of intention to prove to evade. Learned AR confronted with the judgment reiterated the findings of the lower authority and stated that their cannot be an absolute proposition stating that State Government undertaking cannot be involved in evasion.

4. This court has considered all the propositions as stated above and finds that the Hon'ble Bombay High Court as above and also various other decisions favour the proposition that when interest and duty has been paid before hand, the show cause notice need not to be issued. This was more so as Public Sector Undertaking was involved. In view of foregoing, penalties are set aside, as imposed in order. Appeal allowed.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Neha