IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No.ST/55784/2014-CU[DB]

(Arising out of Order-in-Original No.05/Commr./ST/GZB/14-15 dated 31/07/2014 passed by Commissioner, Customs, Central Excise & Service Tax, Ghaziabad)

Commissioner, Central Excise & Service Tax, Ghaziabad **Appellant**

Vs.

M/s Shiv Shanker Electricals & Contractors **Respondent**

Appearance:

Shri Shiv Pratap Singh, Deputy Commissioner (AR), for Appellant
Absent for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing/ Decision : 29/01/2019

FINAL ORDER NO.**70198 / 2019**

Per: Archana Wadhwa

Being aggrieved with the order passed by Commissioner vide which he has dropped the demand in respect of the activities of Construction etc. undertaken by the respondents for the construction of sub-stations etc. for transmission of electricity, Revenue has filed the present appeal.

2. On going through the impugned order, we find that the Adjudicating Authority has observed that all such activities was in connection with the transmission of electricity, which

is exempted by way of Notification No.11/2010-ST. He has observed, words used in the Notification which are “for transmission of electricity” has to be given widest amplitude and signify that any services provided, which directly or indirectly enables the service receiver to transmit electricity, shall fall within the scope of said notification. For arriving at above finding, he has relied upon the Tribunal decision in the case of M/s Paschmanchal Vidyut Vitran Nigam Ltd. reported as 2012 (28) STR 412 (Tri.-Del.) as also in M/s Purvanchal Vidyut Vitran Nigam Ltd. reported as 2013 (30) STR 259 (Tri.-Del.) and in M/s MP Power Transmission Co. Ltd. 2011 (24) STR 67 (Tri.-Del.). He has also relied upon the Tribunal decision in the case of M/s Kedar Constructions V/s CCE, Kolhapur reported as 2014 TIOL 829 (CESTAT-Mumbai), wherein the Tribunal has held that the activity of construction of substation, control rooms would be covered by the exemption from the service tax vide various notifications exempting taxable services relating to transmission of electricity. The Adjudicating Authority has held that such declaration of law by the Tribunal has to be followed by him. He has also referred to another decision of the Tribunal in the case of M/s Noida Power Co. Ltd. reported as 2014 (33) STR 383 (Tri.-Del.).

3. Revenue in the memo of appeal has reiterated the same stand that since the substations are constructed by the

respondent, they are liable to pay service tax under Construction services. The various grounds of appeal raised by the Revenue are silent about the declaration of law by the precedent decision of the Tribunal or their applicability to the facts of the present case. Inasmuch as the various precedent decisions discussed by the Adjudicating Authority covers the disputed issue in favour of the assessee and in the absence of any rebuttal by the Revenue, we find no reasons to take a view different than the one taken by the Adjudicating Authority. Accordingly, Revenues appeal is rejected being lacking on merits.

(Pronounced & Dictated in Court)

Sd/-	Sd/-
(Anil G. Shakkarwar)	**(Archana Wadhwa)**
Member (Technical)	**Member (Judicial)**

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