

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 21478 of 2014

(Arising out of Order-in-Appeal No. 94/2014 dated 29.01.2014
passed by the Commissioner of Central Excise (Appeals -II),
Bangalore.)

**M/s. SNC Power Corporation
Pvt. Ltd.,**

SNC House, 4th Floor,
No. 7, Residency Road,
(Old No.9, Raja Ram Mohan Roy Road),
Bangalore - 560 025.

Appellant(s)

VERSUS

**The Commissioner of Service
Tax Commissionerate**

Traffic Transit Management Centre,
BMTc Building, 4th Floor,
Domlur, Old Airport Road,
Bangalore - 560 071.

Respondent(s)

With

Service Tax Appeal No. 22406 of 2015

(Arising out of Order-in-Original No. BLR-EXCUS-003-COM-08-15-16
dated 30.09.2015 passed by the Commissioner of Central Excise,
Bengaluru III Commissionerate, Bengaluru.)

**M/s. SNC Power Corporation
Pvt. Ltd.,**

SNC House, 4th Floor,
No. 7, Residency Road,
(Old No.9, Raja Ram Mohan Roy Road),
Bangalore - 560 025.

Appellant(s)

VERSUS

**Commissioner of Central
Excise-III**

6th Floor, C.R. Building, Queens Road,
Bangalore - 560 001.

Respondent(s)

APPEARANCE:

Mr. N. Anand, Advocate for the Appellant

Mr. Vikalp Jain, Superintendent (AR) for the Respondent

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R. BHAGYA DEVI, MEMBER
(TECHNICAL)**

Final Order No. 22121-22122 /2026

DATE OF HEARING: 23.12.2025

DATE OF DECISION: 23.12.2025

PER : DR. D.M. MISRA

These two appeals are filed against respective Order-in-Appeal and Order-in-Original passed by the Commissioner of Central Excise (Appeals-II) / Commissioner of Central Excise, Bangalore.

2. Briefly stated the facts of the case are that the appellant are engaged in providing taxable services under the category of 'Commercial or Industrial Construction Service', 'Works Contract Service' during the relevant period. Alleging that the appellant had short paid service tax of Rs.19,23,013/- for the period 01.06.2007 to 30.09.2007 and Rs.51,35,675/ for the period from 01.10.2007 to 31.03.2009, show-cause notices were issued on 05.09.2008 and 16.05.2012 respectively for recovery of the same amounts with interest and penalty. On adjudication, the demands were confirmed with interest and penalty. Aggrieved by the Order-in-Original No.203/2011 dated 08.12.2011, they filed appeal before the learned Commissioner (Appeals) who in turn rejected their appeal. Hence, these two appeals.

3. At the outset the learned advocate for the appellant has submitted that the appellant is engaged in the activity of construction services viz. construction of thermal power projects across India and registered under the category of 'Commercial or

Industrial Construction Service', 'Works Contract Service'. The appellant during the period in dispute i.e. 01.06.2007 to 31.03.2009 executed civil contract/construction works for two main contractors viz. M/s. BHEL Ltd. and M/s. VA Tech Escher Wysss Flovel Limited. The contracts executed were composite contracts involving supply of goods and also materials for undertaking the construction work. These contracts were entered during the year 2005 and they have been discharging local VAT/sales tax under the Sales Tax Laws. He has submitted that these contracts were not liable for payment of service tax prior to 01.06.2007 as services in relation to execution of 'Works Contract' became leviable to service tax only w.e.f. 01.06.2007 as has been held by the Hon'ble Supreme Court in the case of CCE vs. Larsen & Toubro Limited [2015 (39) STR 913 (SC)]. The appellant had paid service tax in respect of milestone bills in terms of the said contract prior to 01.06.2007 under the category of 'Commercial or Industrial Construction Service'. However, w.e.f. 01.06.2007, they discharged service tax under the Composition Scheme of payment of service tax relating to 'Works Contract' service. This fact was duly intimated to the Department vide letter dated 04.10.2007 and accordingly the appellant discharged service tax and filed ST3 returns from time to time. He has further submitted that in the impugned order, the learned Commissioner / learned Commissioner(Appeals) have confirmed the demands on the ground that the appellant ought not have paid service tax under 'Works Contract Service' but should have continued to pay under the category of 'Commercial or Industrial Construction Service' after claiming abatement for the period 01.06.2007 onwards. He has submitted that in view of the judgments of the Hon'ble Supreme Court in the case of CCE vs. Larsen & Toubro Limited (Supra) case, the demands cannot be sustained.

4. The Learned AR for the Revenue has reiterated the findings of the learned Commissioner (Appeals).

5. Heard both sides and perused the records.

6. Undisputed facts of the case are that the appellant had discharged service tax for undertaking the construction services prior to 01.06.2007 under the taxable category of 'Commercial or Industrial Construction Service' and thereafter w.e.f. 01.06.2007 paid service tax under 'Works Contract Service'. Therefore, the demand confirmed for the period after 01.06.2007, in our opinion, cannot be sustained when the construction work carried out by the appellant are in the nature of 'Works Contract Service' which involves both supply of material as well as labour. This view has been expressed by the Hon'ble Supreme Court in the case of CCE vs. Larsen & Toubro Limited (supra), which was followed by this Tribunal in the case of M. Srinagesh Hegde V. CCE [2024 (388) ELT 381 (Tri.-Bang.)]. This Tribunal observed as follows:

"8. The Works Contract Service became taxable w.e.f. 1-6-2007 as held by the Hon'ble Supreme Court in the case of Larsen & Toubro Ltd. (supra) and in the said case, it has been held that prior to 1-6-2007, works contract service cannot be subjected to service tax levy by vivisectioning the composite service contract, which includes both goods and services. The said judgment has been followed by the Hon'ble Supreme Court in the case of Total Environment Building Systems (P.) Ltd. v. Deputy Commissioner of Commercial Taxes [2022 (63) G.S.T.L. 257 (S.C.) = [2022] 141 taxmann.com 66/[2022] 93 GST 702 (SC)]. Their lordships observed as:

12. What was said by the Constitution Bench in Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217 and Keshav Mills Co. Ltd. v. Commissioner of Income Tax, Bombay North, Ahmedabad, AIR 1965 SC 1636, on the principle of

stare decisis clearly bind us. The judgment of this Court in the case of Larsen and Toubro Limited (supra) has stood the test of time and has never been doubted earlier. As observed hereinabove, the said decision has been followed consistently by this Court as well as by various High Courts and the Tribunals. Therefore, if the prayer made on behalf of the Revenue to re-consider and/or review the judgment of this Court in the case of Larsen and Toubro Limited (supra) is accepted, in that case, it will affect so many other assesseees in whose favour the decisions have already been taken relying upon and/or following the decision of this Court in the case of Larsen and Toubro Limited (supra) and It may unsettle the law, which has been consistently followed since 2015 onwards. There are all possibilities of contradictory orders. Therefore, on the principle of stare decisis, we are of the firm view that the judgment of this Court in the case of Larsen and Toubro Limited (supra), neither needs to be revisited, nor referred to a Larger Bench of this Court as prayed, i.e., after a period of almost seven years and as observed hereinabove when no efforts were made to file any review application requesting to review the judgment on the grounds, which are now canvassed before this Court.

13. At this stage, it is required to be noted that one of the appeals being Civil Appeal No. 6523 of 2014 filed by M/s. G.D. Builders is against the decision of the Delhi High Court in the case of G.D. Builders v. Union of India reported (P). It is to be noted that the said decision of the Delhi High Court in the case of G.D. Builders (supra) has been specifically overruled by this Court in the case of Larsen and Toubro Limited (supra). The decision of the Delhi High Court in the case of G.D. Builders (supra) has been considered by this Court in the case of Larsen and Toubro Limited (supra) in paragraphs 28, 29, 30, 32, 33, 38 and 39 and ultimately, this Court opined that the decision of the Delhi High Court in the case of G.D. Builders (supra) is in fact contrary to a long line of decisions. It is further specifically observed and held that the decision of the Delhi High Court in the case of G.D. Builders (supra) is wholly incorrect in its conclusion that the Finance Act, 1994 contains both the charge and machinery and assessment of service tax on indivisible works contract. It is reported that while deciding the group of matters in the case of Larsen and Toubro

Limited (supra), the papers of the appeal filed by M/s. G.D. Builders being Civil Appeal No. 6523 of 2014 were also called and the Learned Counsel appearing on behalf of the G.D. Builders was also heard. It appears that, however, the Civil Appeal No. 6523 of 2014 filed by M/s. G.D. Builders against the decision of the Delhi High Court has not been specifically disposed of. Therefore, once the decision of the Delhi High Court in the case of G.D. Builders (supra), which is the subject matter of Civil Appeal No. 6523 of 2014 has been held to be wholly incorrect, Civil Appeal No. 6523 of 2014 filed by M/s G.D. Builders has to be allowed and the judgment and order passed by the Delhi High Court has to be quashed and set aside.”

7. Following the aforesaid judgment the impugned orders are set aside and appeals are allowed with consequential relief, if any, as per law.

(Operative part of this Order was pronounced in Open Court on conclusion of the hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

Gb/Raja....