CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL NEW DELHI.

PRINCIPAL BENCH - COURT NO. II

Service Tax Appeal No. 51542 of 2022-SM

(Arising out of order-in-appeal No. 05 (SM) ST/JDR/2022 dated 31.01.2022 passed by the Commissioner (Appeals), Central Excise & Central Goods and Service Tax, Jodhpur).

M/s Khandelwal Construction & Co. **Appellant**
319-B, Talwandi, Kota-324007.

VERSUS

Commissioner, Central Goods & Service Tax **Respondent**
G-105, New Jodhpur Industrial Area
Jodhpur (Rajasthan)-342003.

APPEARANCE:

None for the appellant
Sh. Ishwar Charan, Authorised Representative for the respondent

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO. 50994/2022

DATE OF HEARING/DECISION: 10.10.2022

ANIL CHOUDHARY:

The appellant has prayed for a decision on merit.

2. Heard learned Authorised Representative Sh. Ishwar Charan for the Revenue and perused the record.

3. With regard to financial year 2015-16, the appellant urged that they have done the electrification – street light work for the Kota Municipality in the nature of supply and erection of PCC/ RCC poles and drawing of XLPE insulated LT aerial-Bunched Aluminium Conductor Cable alongwith installation of street Lights, alongside the road in Ward No. 5, 7 to 13, 17 to 19, 25 to 40 and 46 vide Work Order No. F-21(2) Elec/MCK/15/269-275 dated

28.07.2015. Similar work they have done for Ward Nos. 6, 14, 15, 20, 21, 22, 24 and 47 under Work Order No. F-21(6) Elec/MCK/15/276-282 dated 28.07.2015. It is urged that the Commissioner (Appeals) have erred in denying the exemption under para 13(a) of Notification No. 25/2012-ST dated 20.06.2012. The said notification provides for exemption of services by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of roads for use by general public.

4. Learned Commissioner (Appeals) have observed that the word 'road' is clear and cannot be substituted by the term 'Street Light and Support Structure'.

5. Having considered the issue I hold that the appellant is entitled to exemption for these works under dispute, as street lights are part of the 'Road'. The gross amount of work as per the impugned order in appeal is Rs. 37,32,122/-. Accordingly, the tax calculated by the Commissioner at Rs.2,16,463/- is set aside. Further, in the light of facts and circumstances, the matter being wholly interpretational in nature, penalty under Section 78 is set aside. Further, penalty under Section 77(2) is also set aside.

6. Thus, the appeal is allowed in the aforementioned terms with consequential benefits, to the appellant.

(Dictated and pronounced in open Court).

(Anil Choudhary)
Member (Judicial)

Pant