CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 07.02.2017

Service Tax Appeal No.56767 & 56789 of 2013
(Arising out of order- in- appeal No. 02(ST)/RPR-1/2013 dated 08.01.2013 passed by the Commissioner (Appeals) Central Excise, Raipur).

M/s Saluja Radio Stores Appellant
M/s Nisha Engineering Works

Vs.

CCE, Raipur Respondent

Appearance:

Ms. B. L. Narasimhan, Advocate for the appellant
Sh. Sanjay Jain, AR for the Revenue

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. Ashok K. Arya, Member (Technical)

Final Order Nos. 50800 – 50801/2017

Per: **Justice (Dr.) Satish Chandra**:

The present appeals are filed against the order- in- appeal No. 02(ST)/RPR-1/2013 dated 08.01.2013 passed by the Commissioner (Appeals) Central Excise, Raipur.

2. The period in dispute is from September, 2005 to July, 2009 and August 2005 to June 2010 respectively. During the period under consideration the appellant were engaged in "works contract service" and provided the services to South Eastern Central Railway, Bilaspur. The appellant entered into contract with the South Eastern Central Railway for supply and laying of signal cables, supply of electronic operated gates at various stations & its installation & commissioning, and supply of LED based display units for

coaches on railway platforms which includes supply of control consol unit i.e. micro-processing central unit consists of PC, keyboard, colour monitor, UPS, coach indicating board, inter-coach & installation, testing & commissioning, supply of electric lifting barrier at railway crossing & its installation, testing & commissioning. For the said activities, the department raised the demand for service tax. Being aggrieved, the present appeals are filed by the appellant.

2. With this background, we heard Shri B. L. Narasimhan, ld. Advocate for the appellant and Sh. Sanjay Jain, ld. AR for the Revenue and perused written submission.

3. After hearing both sides, it appears that prior to 01.06.2007 ‘Works Contract Services’ were not under the clutches of the service tax. Hence, they are not subject for levy of service tax.

4. However, after 01.06.2007 the said services were subject to service tax. But as per Section 65(105)(zzzza) of the Finance Act, 1994, the services under the ‘Works Contract Service’ in respect of roads, airport, railways, transport, terminals, bridges, tunnels and dams are exempted. Hence, the services of the appellant provided to the South Eastern Central Railway is exempted. When it is so, then we find no merit in the impugned order, the same is hereby set-aside.

5. In the result, the appeals filed by the appellant are allowed.

(Dictated and pronounced in the open Court).

(Ashok K. Arya)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant