CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH-COURT NO.-4

Service Tax Appeal No. 58646 of 2013

[Arising out of common Order-in-Original No. 20-2013-SR-JPR-I dated 03/04/2013 passed by Commissioner of Central Excise-JAIPUR-I(Appeal)]

H M Pipes Private Limited **Appellant**
[G-47,48, Bagru Industrial Area, Phase-II
Jaipur]

Versus

Commissioner(Appeals), Central Excise, Jaipur-I **Respondent**
[NCR Building, Statue Circle, C- Scheme
Jaipur, Rajasthan-302005]

With

Service Tax Appeal No. 51190 of 2014

H M Pipes Private Limited **Appellant**
[G-47,48, Bagru Industrial Area, Phase-II
Jaipur]

Versus

Commissioner(Appeals), Central Excise, Jaipur-I **Respondent**
[NCR Building, Statue Circle, C- Scheme
Jaipur, Rajasthan-302005]

And With

Service Tax Appeal No. 55810 of 2014

H M Pipes Private Limited **Appellant**
[G-47,48, Bagru Industrial Area, Phase-II
Jaipur]

Versus

Commissioner(Appeals), Central Excise, Jaipur-I **Respondent**
[NCR Building, Statue Circle, C- Scheme
Jaipur, Rajasthan-302005]

Appearance

Shri Jatin Mahajan, Advocate for the appellant
Shri Amresh Jain, DR for the respondent

CORAM: **Hon'ble Smt. Archana Wadhwa, Member (Judicial)**
Hon'ble Shri Bijay Kumar, Member (Technical)

Date of hearing/ decision: 28.03.2019

Final Order No: 50461/2019

Per Archana Wadhwa

All these three appeals are being disposed of by a common order as the issue involved in all appeals is identical.

2. After hearing both the sides, we find that the appellants, who are engaged in the manufacture of pipelines, was also undertaking the service of laying pipelines for various authorities, which stands taxed by the lower Adjudicating Authority under the category of 'Works Contract'. The appellants are engaged in providing the said services of laying pipelines to various Government organisations for lift irrigation purposes or for construction of canal etc. According to the Ld. Advocate the said issue stands decided in their favour by the larger bench of this Tribunal in case of **Lanco Infratech Limited vs. CC, CE & ST Hyderabad [2015 (38) STR 709 (Tri-Larger Bench)]**.

A part of the demand is in respect of laying of pipelines provided to Municipal Corporations of the State Governments for transportation of the drinking water etc., The said issue also stands decided in the case of **Dinesh Chandra Agarwal infracon Pvt. Ltd. vs. Commissioner [2011(21) STR (4) (Tri.)]** and confirmed by the Hon'ble High Court and has been followed by the Tribunal in number of decisions. It stands held that such an activity is not taxable.

Further a part of the demand is in respect of laying of pipelines for M/s RICCO, a State Government Industrial Origination. Ld. Advocate fairly agrees that such an activity is taxable in their hands and submits that in fact they have been paying the Service Tax on the said activity. However, he fairly agrees that there may be instances where the appellant has not discharged the tax liability on the said laying down of pipelines. Ld. AR appearing for the Revenue submits that the Larger Bench decision of the Tribunal was not available at the time of passing of the impugned order and as such Adjudicating Authority did not have the benefit of examination and applicability of the same to the facts of the present case. As such he prays that the matter may be remanded to the Adjudicating Authority for fresh decision in the light of the law declared by the Tribunal in various decisions.

3. Inasmuch as a part of the demand is required to upheld and the same needs re-quantification, we deem it fit to set aside the impugned order and remand the entire matter to the Adjudicating Authority for fresh decision in the light of the various judgments of the Tribunal, which also stands upheld by the High Courts. Accordingly, the appeal is allowed by way of remand. Needless to say that the appellant would be provided with an opportunity to put forth their case and are at liberty to refer to relied upon various decisions.

(Dictated and pronounced in open court)

(Bijay Kumar)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

Tejo