CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH REGIONAL BENCH AT HYDERABAD
BENCH - DB
COURT - I

Sl. No.	Appeal No.	Appellant	Respondent	Impugned Order
1.	ST/30059/2017	Divisional Electrical Engineer	CC, CE & ST, Guntur	OIA No. GUN-EXCUS-000-APP-052-16-17 dated 27.07.2016
2.	ST/30061/2017	Divisional Electrical Engineer Operations	CST, Guntur	OIA No. GUN-EXCUS-000-APP-054-16-17 dated 27.07.2016
3.	ST/30062/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-055-16-17 dated 27.07.2016
4.	ST/30063/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-056-16-17 dated 27.07.2016
5.	ST/30064/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-058-16-17 dated 27.07.2016
6.	ST/30065/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-059-16-17 dated 27.07.2016
7.	ST/30099/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-060-16-17 dated 27.07.2016
8.	ST/30105/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-063-16-17 dated 27.07.2016
9.	ST/30107/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-051-16-17 dated 28.07.2016
10.	ST/30108/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-062-16-17 dated 27.07.2016
11.	ST/30111/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-064-16-17 dated 27.07.2016
12.	ST/30038/2017	-do-	CC, CE, ST, Nellore	OIA No. VIZ-EXCUS-003-APP-061-16-17 dated 28.10.2016
13.	ST/30039/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-059-16-17 dated 28.10.2016

14.	ST/30040/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-067-16-17 dated 18.11.2016
15.	ST/30041/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-060-16-17 dated 28.10.2016
16.	ST/30042/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-064-16-17 dated 27.10.2016
17.	ST/30043/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-054-16-17 dated 28.10.2016
18.	ST/30044/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-066-16-17 dated 18.11.2016
19.	ST/30045/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-065-16-17 dated 18.11.2016
20.	ST/30066/2017	Divisional Electrical Engineer	-do-	OIA No. VIZ-EXCUS-003-APP-048-16-17 dated 27.10.2016
21.	ST/30067/2017	-do-	CC, CE & ST, Nellore	OIA No. VIZ-EXCUS-003-APP-049-16-17 dated 28.10.2016
22.	ST/30068/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-050-16-17 dated 28.10.2016
23.	ST/30069/2017	Southern Power Distribution of AP Co Ltd.,	-do-	OIA No. VIZ-EXCUS-003-APP-051-16-17 dated 28.10.2016
24.	ST/30070/2017	Divisional Electrical Engineer	-do-	OIA No. VIZ-EXCUS-003-APP-052-16-17 dated 28.10.2016
25.	ST/30071/2017	Divisional Electrical Engineer Operation	CC, CE & ST, Guntur	OIA No. GUN-EXCUS-000-APP-065-16-17 dated 28.07.2016
26.	ST/30072/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-066-16-17 dated 28.07.2016
27.	ST/30073/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-067-16-17 dated 28.07.2016
28.	ST/30074/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-068-16-17 dated 28.07.2016
				OIA No. GUN-

29.	ST/30075/2017	-do-	-do-	EXCUS-000-APP-069-16-17 dated 28.07.2016
30.	ST/30076/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-070-16-17 dated 28.07.2016
31.	ST/30077/2017	-do-	-do-	OIA No. GUN-EXCUS-000-APP-071-16-17 dated 28.07.2016
32.	ST/30100/2017	-do-	CC, CE & ST, Nellore	OIA No. VIZ-EXCUS-003-APP-055-16-17 dated 28.10.2016
33.	ST/30101/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-057-16-17 dated 28.10.2016
34.	ST/30102/2017	Divisional Electrical Engineer Town 2 Operations	CC, CE & ST, Guntur	OIA No. GUN-EXCUS-000-APP-072-16-17 dated 28.07.2016
35.	ST/30103/2017	Divisional Electrical Engineer Operation	CC, CE & ST, Nellore	OIA No. VIZ-EXCUS-003-APP-062-16-17 dated 28.10.2016
36.	ST/30104/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-056-16-17 dated 28.10.2016
37.	ST/30106/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-058-16-17 dated 28.10.2016
38.	ST/30110/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-068-16-17 dated 18.11.2016
39.	ST/30258/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-070-16-17 dated 23.12.2016
40.	ST/30274/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-071-16-17 dated 23.12.2016
41.	ST/31332/2017	-do-	CCE, Guntur – GST	OIA No. VIZ-EXCUS-003-APP-045-17-18 dated 29.09.2017
42.	ST/31333/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-046-17-18 dated 29.09.2017
43.	ST/31334/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-047-17-18 dated 29.09.2017
				OIA No. VIZ-EXCUS-

44.	ST/31335/2017	-do-	-do-	003-APP-048-17-18 dated 29.09.2017
45.	ST/31336/2017	-do-	-do-	OIA No. VIZ-EXCUS-003-APP-049-17-18 dated 29.09.2017

Appearance:

Mr. Y. Sreenivasa Reddy Adv for the Appellant.
Mr. Guna Ranjan, A.R. for the Respondent.

CORAM:

HON'BLE Mr M V RAVINDRAN, MEMBER (JUDICIAL)
HON'BLE Mr C J MATHEW, MEMBER (TECHNICAL)

Date of Hearing: 22/02/2018
Date of Decision: 22/02/2018

Final Order No. A/ 30284-30328/ 2017

[Order per: C.J. MATHEW] .

The appellant, though represented in the forty five appeals by its various administrative units, is M/s Southern Power Distribution Company of Andhra Pradesh Ltd, an entity established under the Electricity Act, 2003 for distributing electrical energy to consumers at their doorstep. Proceedings were initiated against these administrative units for services rendered in the course of providing access to electrical energy for which cost was recovered from consumers. The appellant had, admittedly, been including the service tax component in the recoveries effected from consumers which, according to jurisdictional service tax authorities, should have been deposited in the Consolidated Fund of India but not having done so, rendered the amount, rendering them liable for recovery under section 73A of Finance Act, 1994. In addition, claims for refund of some amounts that had been deposited on demand were rejected by the original authorities. The first appellate authority affirmed the orders of the lower authority leading to these appeals.

2. Learned Counsel points out that the works for providing electrical energy from the nearest point of supply was executed through contractors who were liable to pay half the tax with the other half withheld by appellant as person liable to pay tax to that extent. He contends that the lower authorities had failed to appreciate the evidence of deposit of the amount so recovered from the consumers by holding the documentary evidences furnished as insufficient to establish that the amounts deposited pertained to these works. This, we find, has been so recorded in the impugned orders. Learned Counsel submitted that a proper scrutiny of the documents that had been furnished would suffice to establish their claim and that, even if it were not so, the appellant would provide additional evidence to the satisfaction of lower authorities.

3. Learned Authorised Representative drew our attention to the findings of the lower authorities that the appellant did not dispute the

recovery of tax from the consumers and that the various decisions cited by the Learned Counsel in their favour presupposes the availability of evidence of deposit of amounts and a back-to-back correlation with tax collected from customers.

4. It would, therefore, appear from the rival arguments that the entire issue can be resolved by a scrutiny of documentary evidence for ascertainment of claim of appellant that they had not retained the tax collected from its customers. In these circumstances, the appropriate course of action would be to set aside the impugned orders and remit the dispute back to the original authority who, in accordance with the principles of natural justice, would afford an opportunity to the appellant to submit all relevant evidence each of which shall be scrutinised and decided thereupon. Appellants are at liberty to submit any other documents that may assist in such scrutiny.

5. On the above terms, we dispose off these appeals keeping all issues open for resolution by the original authorities.

(Order pronounced and dictated in open court)

(M V Ravindran)	**(C J Mathew)**
Member (Judicial)	***Member (Technical)***

Neela Reddy