CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD

Division Bench
Court – I

Appeal No. ST/180/2012

(Arising out of Order-in-Original No. 10/2011-Adjn-ST (Commr) dated 20.09.2011 passed by CCCE & ST, Hyderabad - II)

IVRCL – Navyuga – SEW Joint Venture ….. Appellant(s)

Vs.

CST, Hyderabad - ST ….. Respondent(s)

Appearance
Shri B. Venugopal, Advocate for the Appellant.
Shri B. Guna Ranjan, Superintendent/AR for the Respondent.

Coram:
Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)
Hon'ble Mr. P.V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 10.01.2019
Date of Decision: 10.01.2019

FINAL ORDER No. A/30050/2019

[Order per: M.V. Ravindran]

1. This appeal is directed against Order-in-Original No. 10/2011-Adjn-ST (Commr.) dated 20.09.2011.

2. The brief facts that arise for consideration, after filtering out unnecessary details are appellant herein was awarded a contract for "Stage-II, Phase-I of SRIPADA SAGAR PROJECT: 'Investigation, Soil, Exploration, Design, Supply, Installation, Testing and Commissioning of Pumping Machinery, raising Mains including construction of Pump House all civil structures, CM & CD Works and Delivery Cistern etc., to develop 2.00 lakh acres ayacut duly considering the needs of drinking water for enrooting from SRIPADA SAGAR PROJECT near Yelampalli, Ramagundam in Karimnagar District, Andhra Pradesh on EPC Turnkey System"; and received consideration regularly from the Andhra Pradesh Government. It was the view of the revenue authorities that the said EPC contract, even it is for construction of canals/ pipelines to conduit irrigation and even for non-commercial purposes, is liable to service tax. Accordingly, a

show cause notice dated 09.04.2010 was issued to appellant demanding tax under the category of 'Works Contract Services' under Sec.65 (105) (zzzza) of the Finance Act, 1994. The appellant contested the show cause notice on merits. After following due process of law, the adjudicating authority confirmed the demands raised along with interest and imposed penalties.

3. Learned counsel submits that issue involved in this case is periodical notices subsequent to the show cause notices issued to appellant in appeal ST/918/2011 and is covered by the Larger Bench judgment of the Tribunal in the case of Lanco Infratech Ltd [2015 (38) STR 709] wherein appellant's case in appeal ST/918/2011 was also disposed of in their favour. He produces the copy of the said order as reported.

4. Learned departmental representative reiterates the findings of the lower authorities.

5. On careful consideration of the submissions made and the perusal of records, we do find strong force in the contentions raised by the learned counsel that appellant's appeal ST/918/2011 on the very same execution of the contract in respect of SRIPADA SAGAR PROJECT Phase-I was disposed of in favour of the appellant in Larger Bench decision of Lanco Infratech Ltd holding that these activities of appellant as per the contract are not liable for service tax and would not fall within the ambit of clause (v), explanation (ii) of Sec.65 (105) (zzzza).

6. Respectfully following the said judgment, we hold that the impugned order is unsustainable and liable to be set aside and we do so.

7. The impugned order is set aside and the appeal is allowed.

(Operative Part of this order was pronounced in the Open Court
On conclusion of hearing)

(P.VENKATA SUBBA RAO) MEMBER (TECHNICAL)	(M.V. RAVINDRAN) MEMBER (JUDICIAL)

Veda