

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD**

Division Bench – Court No. – I

Service Tax Appeal No. 25595 of 2013

(Arising out of Order-in-Original No.39/2012-Adjn (ST) Commr. dt.30.10.2012 passed by
Commissioner of Customs, Central Excise & Service Tax, Hyderabad-II)

SLMI Infra Projects Pvt Ltd

(formerly known as Sree Lakshmi Metal Industries
& Constructions), H.No.12-13-23, Street No.5,
Secunderabad, Telangana – 517 001

.....Appellant

VERSUS

**Commissioner of Central Excise &
Service Tax, Hyderabad - II**

Kendriya Shulk Bhavan, LB Stadium Road,
Basheerbagh, Hyderabad – 500 004

.....Respondent

Appearance

Ms. Anushka Rastogi, Advocate for the Appellant.
Shri V. Srikanth Rao, AR for the Respondent.

Coram:

**HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)**

FINAL ORDER No. A/30542/2025

Date of Hearing: 03.12.2025

Date of Decision: 03.12.2025

[Order per: A.K. JYOTISHI]

M/s SLMI Infra Projects Pvt Ltd (hereinafter referred to as the appellant) have come in appeal against OIO dt.30.10.2012, whereby, demand of service tax Rs.27,42,58,728/- raised in the SCN dt.21.10.2010 has been dropped by the adjudicating authority, however, demand of Rs.1,72,686/- under 'Management, Maintenance or Repair Service' (MMRS) was confirmed along with equal penalty as well as penalty of Rs.200/- per day for every day during which the failure to obtain service tax registration continued under section 77 of the Finance Act, 1994. The adjudicating authority has considered the said activity of the appellant as maintenance of park and accordingly, confirmed the demand under MMRS.

2. Learned Advocate has, however, taken us through the work order as well as RA bills in support that the activity performed by them involved material portion also and therefore, would appropriately be covered under the category of 'Works Contract Service' (WCS) and not under MMRS.

Further, this activity was performed for the period prior to 01.06.2007 and therefore, in view of the judgment of Hon'ble Supreme Court in the case of CCE & C, Kerala Vs Larsen & Toubro Ltd [2015-TIOL-187-SC-ST], the said activity cannot be charged under any other category prior to that date and on the said ground itself, the demand would not sustain for the period prior to 01.06.2007.

3. Learned AR, on the other hand, reiterates the findings of the adjudicating authority and submits that the activity is appropriately classifiable under MMRS.

4. Heard both sides and perused the records.

5. We find that the short issue to be decided is whether the activity carried out by the appellant in respect of construction of boundary wall of park is covered under MMRs or is otherwise covered under WCS. We find that admittedly, in carrying out the said activity, they have used various materials like cement, steel, etc., which is not disputed by either side. Therefore, since, material portion is also involved along with supply of service, it would be more appropriately covered under WCS and since levy of service tax on WCS came only w.e.f. 01.06.2007, therefore, no demand can be made under this category for the period prior to this date. In view of the same, the impugned order confirming the demand under MMRS will not sustain and to that extent, it is accordingly set aside.

6. Appeal allowed.

(Dictated and pronounced in the Open Court)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)