CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL HYDERABAD

Division Bench - Court No. – I

Service Tax Appeal No. 30309 of 2019
With Miscellaneous Application No. ST/CROSS/30309/2019

(Arising out of Order-in-Original No.HYD-EXCUS-AUDIT-COM-006-18-19 dt.30.11.2018 passed by Commissioner of Central Tax (Audit-II), Hyderabad)

Commissioner of Central Tax
Hyderabad - GST ......**Appellant**
GST Bhavan, LB Stadium Road,
Basheerbagh, Hyderabad – 500 004

VERSUS

M/s K. Ramachandra Rao
Transmission & Projects Ltd ……**Respondent**
Praveen Chambers, 305 B Block, Kushal
Towers, Khairatabad, Hyderabad – 500 004

Appearance:-

Shri V.R. Pavan Kumar, AR for the Appellant.
None for the Respondent.

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

FINAL ORDER No. A/30366/2026

Date of Hearing: 22.06.2026
Date of Decision: 22.06.2026

[Order per: ANGAD PRASAD]

The Department has come in appeal against the impugned Order-in-Original dt.30.11.2018, whereby, the Adjudicating Authority has extended the benefit of exemption under S.No. 12(a) of the Notification No.25/2012-ST dt.20.06.2012 to the Respondents, M/s K. Ramachandra Rao Transmission & Projects Ltd.

2. Heard and perused the records.

3. Owing to a difference of opinion between the learned Member (Judicial) and learned Member (Technical), the matter was referred to a Third Member. Since the questions referred were not fully answered, the

matter was again placed before another Bench and thereafter, referred to another learned Third Member.

4. Ultimately, the learned Third Member, vide Interim Order No. 06/2025 dt.27.11.2025, held that Transmission and Distribution of Electricity is not a function entrusted to a Municipality under Article 243W read with 12th Schedule of the Constitution of India and consequently, the respondent was not entitled to claim exemption under S.No.12(a) of Notification No. 25/2012-ST. The Rectification of Mistake application filed against the said order was also dismissed, vide Miscellaneous Order No. M/30086/2026 dt.23.04.2026.

5. In terms of section 129C(5) of the Customs Act, 1962, made applicable to Service Tax matters, the opinion of the majority constitutes the decision of the Tribunal. Consequently, the legal issue concerning interpretation of exemption notification now stands concluded by the majority opinion.

6. However, it is equally evident from the record that neither the Division Bench nor the learned Third Member has undertaken any factual examination regarding the exact nature of the services rendered, the identity and legal status of its recipient, the period-wise taxability, valuation, quantification of demand, limitation, admissibility of Cenvat credit, if any, or other consequential issues arising from the SCN. Those factual aspects have not yet been adjudicated in the light of the legal position settled by the majority decision.

7. The Adjudicating Authority had originally allowed the exemption on a legal interpretation, which no longer survives in view of the majority opinion. Consequently, the original adjudication requires re-consideration by applying the law as finally declared by the Tribunal.

8. At the same time, the respondent cannot be deprived of an opportunity of placing of factual materials and legal submissions before the adjudicating authority. Principles of natural justice require that both sides should be accorded adequate opportunity before fresh adjudication.

9. Accordingly, while accepting the majority view on the legal issue, we consider it appropriate to remand the matter for fresh adjudication confined to the surviving factual issues.

10. Accordingly, the impugned OIO dt.30.11.2018 is set aside and the matter is remanded to jurisdictional Adjudicating Authority with following directions:

(i) The Adjudicating Authority shall decide the matter afresh strictly in accordance with the majority decision of this Tribunal holding that Transmission and Distribution of Electricity is not a function entrusted to a Municipality under Article 243W read with 12^{th} Schedule of the Constitution and that exemption under S.No.12(a) of the Notification No. 25/2012-ST is not available on that ground.

(ii) All issues other than the legal issue concluded by the majority decision are left open for fresh adjudication.

11. The appeal is allowed by way of remand in the above terms.

(Operative Part of the Order was pronounced in the Open Court)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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