IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.1

Service Tax Appeal No.75310 of 2016

(Arising out of Order-in-Appeal No.127/GHY/CE(A)/GHY/15 dated 31.12.2015 passed by Commissioner of Customs (Appeals),Central Excise & Service Tax, Guwahati)

M/s Brahmaputra River Valley Trading (P) Ltd.
(Jogipara,Bongaigaon,724,Peace Enclave, 3rd Floor,3E,Ulubari Chariali, G.S.Road, Guwahati-781007)

Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Guwahati
(Nilmani Phukan Path, Christian Basti, Guwahati-5)

Respondent

APPERANCE :

Shri Debraj Sahu, Advocate for the Appellant
Shri S.K.Singh, Authorised Representative for the Respondent

CORAM:
HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR.K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.75176/2025

DATE OF HEARING : 24 JANUARY 2025
DATE OF DECISION : 24 JANUARY 2025

Per Ashok Jindal :

The appellant is in appeal against the impugned order demanding service tax under the category of "Goods Transport Agency's Services".

2. The facts of the case are that the appellant entered into an agreement with ASEB for installation and erection of 11KVA & LT line for rural electrification under Rajib Gandhi Gramin Vidyutikaran Yojna in Assam. As per the terms of the contract, the appellant is carrying electrification in lower Assam. The whole project is on turnkey project and to handover the project to the Assam State Electricity Board (ASEB) after completion of the project. The appellant has quoted the price on element of cost of the project showing the freight charges for

transportation of materials to the project site, which is part of the project contract.

2.1 The respondent audited on 31.07.2013 and 02.08.2013 and during the course of scrutiny, it was observed by the Audit Team that during the period from April, 2008 to March, 2013, the appellant has received an amount of Rs.7,96,96,636/- as freight and insurance from ASEB in respect of transportation of goods brought in by them for carrying on turnkey project of rural electrification and did not pay the service tax.

2.2 Therefore, the proceedings were initiated against the appellant and demand of service tax was confirmed.

2.3 Aggrieved from the said order, the appellant is before us.

3. The ld.Counsel for the appellant submits that the appellant was engaged in the activities of installation and erection of electricity under Rajib Gandhi Gramin Vidyutikaran Yojna in the State of Assam. He, therefore, submits that any activity connected with the said services, is exempted from payment of service tax under Notification No.45/2010-ST dated 20th July, 2010. Therefore, they are not liable to pay service tax.

4. On the other hand, the ld.A.R. for the Revenue, reiterated the findings of the impugned order.

5. Heard both sides and considered the submissions.

6. We find that in this case, the appellant has availed services under "Goods Transport Agency's Services" in respect of the services provided by them for installation and erection of for rural electrification under Rajib Gandhi Gramin Vidyutikaran Yojna, which is exempted in terms of

Notification No.45/2010-ST dated 20th July, 2010. For better appreciation, the said Notification is extracted below :

Notification No. 45/2010-S.T., dated 20-7-2010

> *"Electricity — Exemption to all taxable services relating to transmission of electricity till 26-2-2010 and distribution of electricity till 21-6-2010.*
>
> *Whereas, the Central Government is satisfied that a practice was generally prevalent regarding levy of service tax (including non-levy thereof), under section 66 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as 'the Finance Act'), on all taxable services relating to transmission and distribution of electricity provided by a person (hereinafter called 'the service provider') to any other person (hereinafter called 'the service receiver'), and that all such services were liable to service tax under the said Finance Act, which were not being levied according to the said practice during the period up to 26th day of February, 2010 for all taxable services relating to transmission of electricity, and the period up to 21st day of June, 2010 for all taxable services relating to distribution of electricity;*
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> *Now, therefore, in exercise of the powers conferred by section 11C of the Central Excise Act, 1944 (1 of 1944), read with section 83 of the said Finance Act, the Central Government hereby directs that the service tax payable on said taxable services relating to transmission and distribution of electricity provided by the service provider to the service receiver, which was not being levied in accordance with the said practice, shall not be required to be paid in respect of the said taxable services relating to transmission and distribution of electricity during the aforesaid period."*

7. After examining the above Notification, we find that the said Notification has exempted all taxable services relating to transmission

and distribution of electricity provided by a person to any other person that all such services are liable to service tax under the Finance Act, which were not being levied according to the said practice during the impugned period. Therefore, the services provided by the appellant is squarely covered under the activity relating to transmission of electricity.

8. In that circumstances, the appellant is not liable to pay service tax on "Goods Transport Agency's Services". Therefore, no service tax is payable by the appellant.

9. In view of this, whole of the demand of service tax is set aside. Consequently, the penalty imposed on the appellant is also set aside.

10. In the result, we set aside the impugned order and allow the appeal with consequential relief, if any.

(Operative part of the order was pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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