IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 76537 of 2016

(Arising out of Order-in-Original No. 04/Comm/ST/SLG/16-17 dated 14.06.2016 passed by the Commissioner of Customs, Central Excise & Service Tax Siliguri Commissionerate, C. R. Building, Haren Mukherjee Road, Hakim Para, Siliguri-734 001)

M/s. Shankar Agarwal **: Appellant**
(Proprietor Shankar Agarwal)
Namchi Bazar, South Sikkim,
Sikkim-737126

VERSUS

Commissioner of Central Excise, Customs & **: Respondent**
Service Tax, Siliguri Commissionerate, Siliguri
C. R. Building, Haren Mukherjee Road,
Hakim Para, Siliguri-734 001

AND

Service Tax Appeal No. 76908 of 2016

(Arising out of Order-in-Original No. 04/Comm/ST/SLG/16-17 dated 14.06.2016 passed by the Commissioner of Customs, Central Excise & Service Tax Siliguri Commissionerate, C. R. Building, Haren Mukherjee Road, Hakim Para, Siliguri-734 001)

Commissioner of Central Excise, Customs & **: Appellant**
Service Tax, Siliguri Commissionerate, Siliguri
C. R. Building, Haren Mukherjee Road,
Hakim Para, Siliguri-734 001

VERSUS

M/s. Shankar Agarwal **: Respondent**
(Proprietor Shankar Agarwal)
Namchi Bazar, South Sikkim,
Sikkim-737126

APPEARANCE:

Shri Shivani Agarwal, C. A. for the Assessee

Shri P. Das, Authorized Representative for the Revenue

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NOS.76400-76401/2025

DATE OF HEARING / DECISION: 30.04.2025

Order: [PER SHRI ASHOK JINDAL]

Both sides are in appeal against the impugned order. The assessee has also filed a cross objection to the appeal filed by the Revenue.

2. The facts of the case are that the assessee was awarded works under the Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) by the Energy and Power Department, Government of Sikkim.

The details of the work orders are as follows: -

Sl. No.	Contract No.	Nature of activities	Service component in the Contract
1.	11/GOS/E&P/2005/Supply/119 Dt.28/02/2009	These are a contract only for supply and delivery of materials and equipment at site for execution of rural electrification works. This contract required the contractors to only supply materials at site which were to be purchased and procured from approved suppliers and manufacturer.	These is no service tax component on supply of Goods. Freight and insurance on supply of goods is paid to contractors which is inclusive of Service Tax if applicable.
2.	11/GOS/E&P/2005/Supply/206 Dt.01/08/2012 and		
3.	11/GOS/E&P/2005/Supply/208 Dt.01/08/2012		
4.	11/GOS/E&P/2005/Erection/122 Dt.28/02/2009,	This is contract for providing erection, testing & commissioning of Electrical Goods and civil	The Service Tax is applicable on Erection, Testing, Commissioning and Civil Construction of Two Storied
5.	11/GOS/E&P/2005/Erection/207 Dt.01/08/2012 and		

6.	11/GOS/E&P/2005/Erection/207 Dt.01/08/2012	Construction of Control Room Building services at site for execution of rural electrification works.	Control Building. The service Tax and different Service Tax rate (12.36%/4.08%) for Erection Work and Civil Construction Work respectively as applicable has been specified in the specified in the Schedules to Work Order attached

2.1. The first three contracts (Contract Nos. 1, 2 and 3) are for supply of materials and equipment at site for execution of rural electrification works and Contact Nos. 4, 5 and 6 are for providing erection, testing and commissioning of electrical goods and civil construction of control room Building services at site for execution of rural electrification works.

2.2 The Revenue is of the view that as all the contracts are related to each other, therefore, on whole of the amount received against these six contracts, the appellant is liable to pay Service Tax under the category of 'erection, commissioning and installation' service. Accordingly, proceedings were initiated against the assessee for the period from 2009-10 to 2013-14, by way of issuance of a Show Cause Notice dated 13.01.2015, by invoking the extended period of limitation.

3. The assessee contested the issue contending that Contract Nos. 1, 2 and 3 are only meant for supply of materials and electrical equipment for execution of works and therefore, it is only supply of materials, on which no Service Tax is payable. For the remaining contracts, it is the contention of the assessee-appellant that all these contracts are related to rural electrification and therefore, the same are exempt from levy of Service Tax under Notification No. 25/2012-S.T. dated 20.06.2012 (Entry No. 12A) wherein services provided to government/local authority/governmental authority by way of construction, erection

or commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of civil structures or any other original works meant predominantly for use other than in commerce, industry or any other business or profession, are covered. It is the case of the assessee that these services have been provided by them in regard to rural electrification and hence, on this basis, it was contended that they are not liable to pay Service Tax.

4. The matter was adjudicated and by way of the impugned order, the ld. adjudicating authority dropped the demand of Service Tax proposed in the Show Cause Notice with regard to Contract Nos. 1, 2 and 3, but confirmed the demand against the assessee for contracts of erection, commissioning and testing along with civil construction works.

5. Aggrieved from the said order, both sides are in appeal.

6. The Revenue is in appeal against the dropping of the demand by the ld. adjudicating authority and the assessee is in appeal against the confirmation of the demand.

7. Heard the parties and considered their submissions.

8. We find that the facts of the case are not in dispute that the assessee has been awarded the works under the Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) by the Energy and Power Department of Government of Sikkim.

9. These contracts have been awarded to the assessee-appellant for rural electrification in the State of Sikkim under the scheme of the Central Government. The activity of rural electrification is not liable to be taxed in terms of

10. Notification No. 25/2012-S.T. dated 20.06.2012 (Entry No. 12A), wherein services provided to government/local authority/governmental authority by way of construction, erection or commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of civil structures or any

other original works meant predominantly for use other than in commerce, industry or any other business or profession are exempted.

11. Admittedly, the services provided by the assessee are meant for use other than in 'commerce, industry or any other business or profession', to the State Government under the Central Government scheme of Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY). In these circumstances, we find that the services provided by the assessee are not taxable services.

12. In that view, we hold that no Service Tax is payable by the assessee for the said services.

13. Consequently, the appeal filed by the Revenue deserves no merit and therefore the same is dismissed. Accordingly, the appeal filed by the assessee is allowed. In view of this, the cross objection filed by the assessee against the appeal filed by the Revenue is also disposed of, in the above manner.

14. In these terms, the appeals are disposed of.

(Operative part of Order was pronounced in Open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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