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

REGIONAL BENCH – COURT NO.2

(Virtual Hearing)

Service Tax Appeal No. 75721 of 2024

(Arising out of Order-in-Original No. 19/ST/Commr./Audit/Ranchi dated 19.02.2024 passed by Commissioner (Audit), CGST & Central Excise, Ranchi.)

M/s Sulabh Construction,
(Prop. Bhaminiben Jayendrabhai Candhi.)
(B-33, nageshwar Society, VIP Road, Opp. Mahakali Temple,
Karelibaug, Vadodara-39002)

..Appellant

VERSUS

Commissioner of CGST & Central Excise, Ranchi,
(4th to 6th Floor, Grand Emerald, Ashok Nagar, Ranchi,
Jharkhand-834002))

.. ...**Respondent**

APPERANCE :
Shri Ajay Banerjee, Advocate for the Appellant
Shri P. Das, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR MEMBER (JUDICIAL)
HON'BLE MR. RAJEEV TANDON MEMBER (TECHNICAL)

FINAL ORDER No. 76526/2025

DATE OF E- HEARING : 22.05.2025
DATE OF DECISION : 22.05.2025

PER R. Muralidhar :

The appellant is engaged in providing construction services relating to canals and other water works, for which the contract is given by various State Governments / Main Contractor. Since the activity is fully Service Tax exempt, duly covered by Exemption Notification No. 25/2012, dated 20.06.2012, the appellants have not registered themselves. Therefore, they were neither collecting any Service Tax nor were any paying the same.

2. The appellants are basically located at Vadodara. Based on the Income Tax Returns and Form 26 A.S., a Show Cause Notice was issued by Principal Commissioner CGST and Central Excise Vadodara-I on 23.10.2021 on the ground that appellant has not paid a Service Tax for the period 2016-17. Under the Show Cause Notice, the Service Tax of Rs.3,23,97,377/- was demanded. The appellants appeared before the adjudicating authority and provided proof of having undertaken projects awarded by State Government which are exempted from payment of Service Tax. After this, the adjudicating authority Order-in-Original No. VAD-EXCUS-001-COM-12-22-23, dated 7-10-2022, dropped the proceedings. No further appeal has been preferred by the Department against this order.

3. Since there is no such exemption available under the GST provisions, the appellants have got themselves registered in Gaya for the same original project. The Show Cause Notice was issued on 22.10.2021 by Ranchi Commissionerate demanding the Service Tax for the period April 2016 to June 2017 in respect of the same project which was under litigation in the earlier proceedings before the Vadodara Commissionerate. After due process, the adjudicating authority confirmed the demand. Being aggrieved, the appellant is before the Tribunal.

4. The Learned Counsel appearing on behalf of the appellant submits that this is a case where, in respect of the same project, two Show Cause Notices have been issued. The first Show Cause Notice was

issued by Vadodara Commissionerate and stands adjudicated in favour of the appellant. No further appeal has been preferred by the Revenue against this order. Hence, the issue has already reached finality. However, the Ranchi Commissionerate has issued the Show Cause Notice for the period April 2016 to June 2017 demanding Service Tax of Rs.4,83,08,327/-, which also includes the demanded amount under the earlier SCN adjudicated by the Vadodara Commissionerate. Even in the present case, the same exemption Notification is applicable since the demand pertains to the same Project.

5. The Learned Advocate fairly concedes that in view of some difficulties and some improper communication between the appellant located at Vadodara, the appellant could not properly produce all the documentary evidence before the Adjudicating authority to the effect that one portion of the demand already stands adjudicated in favour of the appellant and that they have proof to show that the entire project taken up by them is exempted from payment of Service Tax on account of Notification No. 25/2012-ST Dated 20.06.2012.

6. After hearing both sides, we find that *prima facie,* the appellant has a strong case since the project involved is the same which was already adjudicated partly for the period 2016-17 (till March 2017) by Vadodara Commissionerate. Since the details were not properly presented before the adjudicating authority at Ranchi, the present OIO has been passed without the proper evidence being brought in by the appellant. We find that in the interest of injustice, the appellant should

be provided another opportunity to make proper submissions before the Adjudicating authority with all the documentary evidence.

7. Therefore, we remand the matter to the Adjudicating authority at Ranchi. The appellant is directed to file all the documentary evidence before him along with the OIO passed by Vadodara Commissionerate and make their submissions before him.

8. The adjudicating authority at Ranchi is directed to complete the proceedings within three months from the date of communication of this order. The appeal stands disposed of thus by way of remand.

(Dictated and pronounced in the open court)

Sd/-
(R. Muralidhar)
Member (Judicial)

Sd/-
(Rajeev Tandon)
Member (Technical)

Tushar Kr.