

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO.**

**Application No. ST/Misc.85984/2018
Appeal No. ST/85601/2015**

(Arising out of Order-in-Appeal No. PUN-EXCUS-001-APP-20-14-15
dt. 06.05.2014 passed by the Commissioner of Central Excise,
Customs & Service Tax (Appeals), Pune-III)

**M/s. Royal Power Turnkey Implements Pvt. : Appellant
Ltd.**

VS

Commissioner of Central Excise, Pune-I : Respondent

Appearance

Shri Shankar Patil, Advocate for Appellant

Shri Dilip Shinde, Asstt. Commr. (A.R) for respondent

CORAM:

**Hon'ble Dr. D.M. Misra, Member (Judicial)
Hon'ble Mr. C.J. Mathew, Member (Technical)**

**Date of hearing : 13/12/2018
Date of decision : 13/12/2018**

ORDER NO. A/88199/2018

Per : Dr. D.M. Misra

This appeal is filed against Order-in-Appeal No. PUN-EXCUS-
001-APP-20-14-15 dt. 06.05.2014 passed by the Commissioner of
Central Excise, Customs & Service Tax (Appeals), Pune-III.

2. The appellant had also filed miscellaneous application seeking change of name as the Proprietorship firm “Royal Electricals” has been taken over by M/s. Royal Power Trunkey Implements Pvt. Ltd. In support they have placed Certificate of Incorporation, Memorandum of Association and Articles of Association in respect of M/s. Royal Power Trunkey Implements Pvt. Ltd. Consequently, the Cause Title is allowed to be changed from “M/s. Royal Electricals” to M/s. Royal Power Turnkey Implements Pvt. Ltd.” MA allowed.

3. Briefly stated the facts of the case are that the appellant are engaged in providing taxable services under the category “Erection and Commissioning or Installation Services”. The appellant have provided installation of street light, traffic lights, flood lights and other electrical and electronic main appliances/devices to various authorities during the relevant period, but they have failed to discharge service tax on the same. Consequently, show cause notice was issued to them for recovery of the service tax amount of Rs.3,09,921/- for the period April 2011 to March 2012 with interest and penalty. On adjudication, the demand was confirmed with interest and penalty. Hence, the present appeal.

4. At the outset, Ld. Advocate fairly submits that for earlier period, in their own case, for Nanded Waghala City Municipal Corporation, this Tribunal has decided the issue against them reported as *Royal Electricals Vs. Commissioner of Central Excise*,

Pune-I 2018 (9) G.S.T.L. 205 (Tri.-Mumbai). However, they have approached the Hon'ble Bombay High Court against the said order and the appeal is pending.

5. Ld. AR for the Revenue reiterates the findings of the Ld. Commissioner (Appeals) and submit that no stay has been granted against the said order of the Tribunal.

6. Heard both sides and perused the records.

7. We find that this Tribunal in their own case has already considered the issue and decided the case against them. This Tribunal at para 4 of the order observed as follows:-

4. We have carefully considered the submission made by both the sides and perused the records. The only defence of the appellant as regard the service of installation of street lights is that the service is related to the road therefore it is excluded from the taxable service under the head of works contract. We do not agree with this submission of the appellant for the reason that the installation of street lights is totally an independent service which is nothing to do with the road construction, the street lights may or may not be required besides the road, therefore it is not related to construction of road. Accordingly the service of installation of street lights being an independent service clearly falls under 'works contract service' and during the relevant period it was taxable. As regard the limitation, we find that though earlier show cause notice dt. 16.4.2010 was issued for the period 2005-06 to 2006-07 but the services being a contract service based on the independent contract. For the subsequent period whether any similar services were provided or otherwise was not known to the department for the reason that the appellant had not declared the transaction of the works contract service

for the period May 2007 to March 2011 to the department in their ST.3 return. Moreover once the department has initiated the proceedings and show cause notice dt. 16.4.2010 was issued the appellant should have declared their transaction of taxable service to the department as they were made understand that the installation service of street light is taxable. Therefore firstly appellant had not declared the transaction in their ST-3 return subsequently despite knowing the taxability of the said service, they have not come forward and informed to the department regarding the provision of service. In these circumstances there is a clear suppression of fact on the part of the appellant. As per the above observation, we uphold the demand of service tax in respect of installation of street lights under the head of works contract on merit as well as on limitation.”

8. We do not find any reason to deviate from the aforesaid observation of this Tribunal.
9. In the result, the impugned order is upheld and the appeal is dismissed.

(Operative portion of the order Pronounced in court)

(C.J. Mathew)
Member (Technical)

(Dr. D.M. Misra)
Member (Judicial)

SM.