Rajeeve Electrical Works Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-17-2007

Reported in : (2008)12STJ403CESTATNew(Delhi)

Judge : J Balasundaram, Vice-

Appellant : Rajeeve Electrical Works

Respondent : Cce

Judgement :

1. The issue in dispute in the present appeal is, as to whether the activity of the appellants herein, who are Electrical Contractors, namely, laying of pipe in wall/floor for crossing of wires, fixing the junction box, MS Box, Wooden Box and digging the earth to lay the cables, digging the earth pits for earthing of equipments and for termination of cables, amounts to erection of plant & machinery or equipment so as to hold them liable for service tax in terms of Clause 39a of the Finance Act, 2004. Clause 39a during the relevant period i.e 10.09.2004 to 30.11.2004 reads as under: Erection, commissioning or installation means any service provided by a commissioning and installation agency in relation to erection, commissioning or installation of plant, machinery or equipment.

2. The Commissioner (Appeals) has held that, the above mentioned activities carried out by the appellants are in the nature of civil work and can very safely be considered to be covered under erection.

However, to my mind, the work carried out by the appellants is nothing but electrical work as is seen from the various activities carried out by them and, therefore, cannot be considered to be civil work, so as to come within the purview of Clause 39a of the Finance Act, 2004. I also note that, it is only w.e.f. 16.06.2005 that installation of electrical devices including wiring or fittings, therefore, was included in the definition of erection, commissioning or installation under Clause 39a of the Finance Act, 2005.

3. In the light of the above discussion, I hold that the appellants are not liable to pay Service Tax as they have not erected or commissioned or installed any plant & machinery or equipment, set-aside the impugned order by which Service Tax has been levied and allow the appeal.

(Dictated and pronounced in the open Court on the 17^th day of December, 2007)