

**Service Tax not payable on Services provided to Government Company for 'Transmission of Electricity'**

The Customs, Excise and Service Tax Appellate Tribunal, Delhi (“**the CESTAT**”) in the case of *M/s Vivek Constructions v. Commissioner of Central Excise and Central Goods & Service Tax [Service Tax Appeal No.50791 of 2019 decided on October 5, 2021]* held that no Service Tax is payable on services provided to a Government Company for ‘transmission of electricity’.

M/s. Vivek Constructions (“**the Appellant**”) is registered with the Service Tax Department and is engaged in providing works contract services to Rajasthan Rajya Vidyut Prasaran Nigam Ltd. (“**RRVPNL**”) which is a Government Company. It appeared to Revenue Department that the Appellant has not paid/ short paid service tax for the taxable services provided during the period 2010-2011 to 2014-2015 and thus, the short-paid tax was found to be Rs.7,75,082/-. A show cause notice raising the demand for the same was given to the Appellant.

The Appellant raised the contention that as per exemption notification no.11/2010-ST dated 27.12.2010, the services provided by any person to any other person for ‘transmission of electricity’ is exempt from service tax. Further, as per negative list of services vide circular no.12/2012-ST read with exemption notification no.25/2012-ST, services provided to the Government and Government Companies are exempt and only those services were taxable, which are used primarily for commerce or industry, or work intended for commerce or industry.

The CESTAT accepted the said contentions and held that the Appellant was entitled to exemption for both time periods i.e., 2010-2011 and 2014-2015. In regard to the 2010-2011 period, it was held that as the Appellant is entitled to exemption under notification nos.11/2010 read with 45/2010-ST as the services were provided to RRVPNL, which is engaged in transmission of electricity. For the period of 2014-2015, it was held that the Appellant will be entitled to exemption as services rendered to the Government Companies, i.e., RRVPNL in the present case, post 30.06.2012, being of non-commercial nature, was also exempt under Notification No.25/2012-ST. Hence, the CESTAT set aside all the demands of tax and penalties.

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