

THE AUTHORITY FOR ADVANCE RULINGS
(Central Excise, Customs & Service Tax)
NEW DELHI

28th Day of August, 2015

Ruling No. AAR/ST/09/2015 in

Application No. AAR/44/ST/13/12-13

PRESENT

Justice V.S. Sirpurkar (Chairman)
Shri S.S. Rana (Member)

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Name & address of the applicant : M/s. K. Ram Mohan, Karnataka

Commissioner concerned : Commissioner of Central Excise,
Customs & Service Tax, Vinaya Marg,
Siddhartha Ngr., Mysore-570011.

Present for the applicant : None

Present for the Department : Shri Govind Krishna Dixit,
Authorised Representative

RULING

(by Sirpurkar J.)

This is an application by one Shri K. Ram Mohan of Karnataka whereby the applicant has raised following 6 questions:-

- (i) classification of any service as a taxable service under Chapter V of the Finance Act, 1994.
- (ii) the valuation of taxable services for charging service tax
- (iii) the principles to be adopted for the purposes of determination of value of the taxable service under the provisions of Chapter V of the Finance Act, 1994.
- (iv) applicability of notifications issued under Chapter V of the Finance Act, 1994
- (v) Admissibility of credit of service tax.
- (vi) determination of the liability to pay service tax on a taxable service under the provisions of Chapter V of the Finance Act, 1994.

2. Before we comment further on the nature of the application and the questions raised therein, we have found on record that the applicant has not bothered to appear before us at any point of time. The application seems to have been forwarded through a counsel and even the counsel has not bothered to come before us excepting on one occasion that is 5th August, 2015. There has been no appearance before us either of the applicant or his counsel. We would have ordinarily dismissed this application for non-prosecution, however, that will not be necessary for the following reasons:-

One look at the application and the written arguments dated 12.3.2013 and 12.8.2013 suggests that the reliance of the applicant is on the Notification No. 25/2012-Service Tax dated 20th June, 2012 and more particularly on para No. 12(a), the applicant has also relied on para No. 13(a) of this Notification. This is an exemption notification where certain services have been exempted. Para 12 (a) is as under :-

“Para 12. Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair maintenance, renovation, or alteration of –

(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession.”

3. The paragraph No. 13 (a) of this Notification on which the reliance is also placed is as under :

“Para 13 Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of (a) a road, bridge, tunnel, or terminal for road transportation for use by general public.”

4. The service that is proposed to be provided by the applicant is street light maintenance which is reflected from Annex. I. According to the applicant this street light maintenance service would be covered under 12(a) of the aforementioned Notification dated 20th June, 2012 and also under para 13(a) which we have already quoted above.

5. Firstly, let us consider the reliance on para 13(a). The look at the plain language would suggest that the services covered are for construction, erection, commissioning, installation, completion, fitting out, repair, maintenance etc. and alteration of a road, bridge, tunnel, or terminal for road transportation for use by general public. One look at the services proposed to be provided as they appear from the application would go to show that this paragraph 13(a) would be wholly irrelevant as the service is not being provided for the maintenance of road, bridge, tunnel etc. It is tried to point out by way of written submissions that the word ‘road’ is a wider term

and include street light supporting structure. We do not think so. As a matter of fact, the word 'road' is clear and it can not be substituted by the term street light support structure. The reliance on para 13 (a) by the applicant is, therefore, of no consequence. The learned representative of the Department has also correctly argued that there would be no question of applicability of paragraph 13(a) of the aforementioned Notification. In view of the specific language of the said paragraph 13(a), we accept the arguments and hold that there will be no question of applicability of para 13(a) of the Notification.

6. That leaves us with a consideration of paragraph 12(a) of the Notification. Unfortunately for the applicant, that para has been omitted by Notification No. 6/2015-Service Tax dated 1st March, 2015. If that is so, there will be no question of any exemption from service tax of the service which is proposed to be offered by the applicant. In short, the claim made in the application is without any legs to stand, the application is rejected.

**Sd/-
(S.S. Rana)
Member**

**Sd/-
(V.S. Sirpurkar)
Chairman**