

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Service Tax Appeal No. 50720 of 2024

[Arising out of Order-in-Appeal No. BHO-EXCUS-001-APP-244-21-22 dated 31.03.2022 passed by the Central Goods & Service Tax and Central Excise (Appeals), Bhopal]

M/s. Electrocare

D-3, Basant Vihar, Padav,
Gwalior, M.P.- 474011

...Appellant

VERSUS

**Principal Commissioner of CGST
& Central Excise – Bhopal**

35-C, GST Bhawan, Area Hills,
Jail Road, Bhopal,
Madhya Pradesh - 462011

...Respondent

APPEARANCE:

Shri Deepak Bajpai, Advocate for the Appellant

Shri Rohit Issar, Authorized Representative for the Respondent

CORAM:

HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)

DATE OF HEARING: 18.02.2026
DATE OF DECISION: **19.03.2026**

FINAL ORDER NO. 50392/2026

DR. RACHNA GUPTA

Present appeal has been filed to assail the Order-in-Appeal (O-I-A) bearing No. 267/ 2021 dated 01.04.2022 Facts which are relevant for the adjudication of this appeal, succinctly, are as follows:

1.1 M/s Electrocare, the appellant herein, is engaged in providing Taxable Service and has been registered with the Service Tax department. During the scrutiny of third party data verification for the financial year 2014-15, department noticed that the appellant had received Rs 33,94,360/- / during the year 2014-15 and had shown the

said amount in their P & L Account. But the amount reflected in the ST-3 Return was shown as Rs. 20,13,272/-. Department opined that appellant has not paid the service tax amounting to Rs. 1,70,702/- on the differential amount of Rs. 13,81,088/-. The said short paid service tax of Rs. 1,70,702/- for the FY 2014-15 was proposed to be recovered from the appellant vide Show Cause Notice (SCN) bearing No. 144/ 2019-20/5095 dated 16.10.2019 along with appropriate interest and the proportionate penalties. The proposal was confirmed vide the Order-in-Original (O-I-O) bearing No. 90/2020-2021 dated 16.03.2021. The appeal against the said O-I-O as been rejected vide the impugned order/ O-I-A except that the order to the extent of confirming late fee amounting to Rs. 1000/- has been set aside. Being aggrieved, the appellant is before this Tribunal.

2. We Have heard Shri Deepak Bajpai, learned counsel for the appellant and Shri Rohit Issar, learned Authorized Representative for the department.

3. Ld. Counsel for the appellant submitted that the appellant is the authorized agent of LG Electronics India Pvt Ltd.(hear in after referred as LGEIL Company and used to provide quality warranty and post warranty technical and repairing services. It is mentioned that the receipts were coming from two sources. One from the direct customers while providing Maintenance and Repair Services in which appellant discharged full service tax as per the prevailing rate (12.36%) in respect

of labour charges. Another source is from LG company while providing Works Contract Services to the customers on behalf of LG during warranty period under free service coupons where appellant used to charge 50% service Tax from the customers and rest 50% used to be paid by LG Company under Reverse Charge Mechanism (RCM) in terms of Notification No. 30/2012 dated 20.06.2012. The Adjudicating authorities below have wrongly denied the service provided to/through LG Company to be Works Contract Services. Ld. Counsel also impressed upon the Certificate dated 09.10.2019 issued by LG Company confirming that 50% serviced tax has been paid by LG Company under RCM, the services being work contract service.

3.1 Ld. Counsel further submitted that the demand is solely based on third party information without any further investigation thus is contrary to law. There is no proof of alleged short payment of service tax. Finally it is submitted that the extended period has wrongly been invoked while issuing the SCN. The appellant was regularly filing the ST-3 Returns duly mentioning both the sources of receipts, nature of the services provided to different set of customers and the amount of service tax paid. Even the notification was also mentioned in the return. Department has failed to scrutinize the returns in time. Suppression of facts cannot be alleged against the appellant. Thus, the SCN is barred by time. Based on these submissions, Ld. Counsel has prayed for the impugned order to be set aside and for the appeal to be allowed.

4. Ld. Departmental Representative (DR) for the department, while rebutting the submissions made on behalf of the appellant, at the outset, has reiterated finding of the order under challenge. It is further mentioned that the appellant had not submitted any document as that a copy of invoices issued for supply of goods and services as well as purchase order for supply of materials / goods to prove that their case falls under work contract services. From few sample invoices, as were submitted by the appellant, there was no material mentioned expect warranty labour claim charges. Hence there has occurred no infirmity in the finding of the impugned order that the service rendered is not WCS. The order is prayed to be upheld and appeal is prayed to be dismissed.

5. Having heard the rival contentions and perusing the entire record. It observed that the appellant is alleged to have short paid service tax observing that though the appellant has made full payment of service tax for the services of repair and maintenance of the electronic products provided by the appellant to the out of warranty customers, but has not paid 100% service tax while repairing product of LG during warranty, on behalf of LG. The shortpaid tax is held to be the liability of the appellant for want of proof that the later services qualify to be called as Work Contract Services.

5.1 It is observed that the appellant has provided the copy of agreement with LG Electronics India Private Limited for being the

exclusive service center for LG for rendering warranty and post warranty service of the LG products in respect of the territories mentioned in the agreement. It is further observed that LG Electronics India Private Limited had certified that the scope of activities to be rendered by M/s Electrocare includes supply of material also as along with the services of repair the parts for the products in warranty are also provided by LGEIL. It has also been certified that since such activity is the Works Contract Service, the same is covered under notification number 30/2012 dated 20th June 2012 according to which the service tax liability is partially (to the extent of 50 percent) is on the service provider and remaining liability is on the service recipient. While acknowledgement letter dated 9/10/2019 LGEIL has also mentioned that the partial liability of 50 percent service tax under work contract service on the value of services received from M/s Electrocare has been paid to the Government by LG on monthly basis. The department has not denied the agreement executed between both the parties where appellant agreed vide Article 3 thereof to render warranty and post warranty services with respect to LGEIL products marketed in India (the products & territory as detailed in Annexures to the said agreement).

5.2 While servicing LGEIL products under warranty LGEIL has to provide parts, free of cost, to the appellant. For these products the services admittedly are provided to LGEIL instead direct customers which is the case while repairing post warranty products. The letters issued by

LGEIL acknowledging the service rendered to them to be work contract service and that 50% service tax is paid by them has not been falsified by the department. The letters and contents there of are admissible into evidence. It stands established that appellant has properly discharged its liability and full service tax is received by government exchequer (50% being paid by LGEIL).

5.3 It is also observed that the appellant was filing ST- returns clearly mentioning activities as works contract service and even specified when it was for warranty products. The documents on record makes it clear that the appellant had given sufficient documentary evidence to the department to prove that they were rendering work contract services while repairing warranty products of LG. There seems no element of suppression on part of the appellant. Impugned SCN dated 16.10.2019 preparing demand for FY 2014-15 is held to have wrongly invoked the extended period of limitation. The SCN is held to be barred by time.

6. In totality of above discussion, the order challenge is hereby set aside and the appeal is consequently allowed.

[Order pronounced in the open court on **19.03.2026**]

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)