

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, CHENNAI**

Service Tax Appeal No. 40323 of 2017

(Arising out of Order in Original No. CBE/ST/2016-Commr. dated 18.11.2016 passed by the Commissioner of Central Excise, Customs and Service Tax, Coimbatore)

Tamil Nadu Transmission Corporation Ltd. Appellant

General Construction Circle
182, Dr. Subbarayan Road
Tatabad, Gandhipuram
Coimbatore – 641 012.

Vs.

Commissioner of GST & Central Excise Respondent

6/7, ATD Street, Race Course Road
Coimbatore – 641 018.

APPEARANCE:

Shri V. Ravindran, Advocate for the Appellant
Shri Sanjay Kakkar, Authorised Representative for the Respondent

CORAM

Hon'ble Shri M. Ajit Kumar, Member (Technical)
Hon'ble Shri Ajayan T.V., Member (Judicial)

FINAL ORDER NO. 40412/2026

Date of Hearing: 19.11.2025
Date of Decision: 24.03.2026

Per M. Ajit Kumar,

This appeal challenges Order-in-Original (**OIO**) No. CBE/ST/2016-Commr. dated 18.11.2016 (**impugned order**), passed by the Commissioner of Central Excise, Customs and Service Tax, Coimbatore.

2. Brief facts are that intelligence received by the department indicated that the appellant had received services relating to erection, commissioning, installation and dismantling of transmission towers, lines and substations, as well as construction and allied works at substations, through contractors registered with TNEB (**Works Contract Service**). The appellant had also hired motor vehicles for

official use (**Rent-a-Cab Service**) and engaged labour on a man-day basis for handling movement of men and materials and for safeguarding offices, stores and vehicles (**Supply of Manpower Service**). These activities were attracting service tax under the reverse charge mechanism with effect from 01.07.2012 in terms of section 68(2) of the Finance Act, 1994 read with Notification No. 30/2012-ST dated 20.06.2012. As service tax was not paid, a letter dated 24.06.2013 was issued seeking details, followed by a summons dated 10.12.2013. In response, the appellant's authorised officer appeared on 03.01.2014 and admitted non-registration and non-payment of service tax. Consequently, a show cause notice (**SCN**), dated 17.07.2015 was issued proposing recovery of duty with interest and penalties under sections 76, 77 and 78. The Adjudicating Authority confirmed the demand with interest, appropriated the tax paid, and imposed penalties, leading to the present appeal.

3. The Ld. Advocate Shri V. Ravindran appeared for the appellant and Ld. Authorized Representative Shri Sanjay Kakkar appeared for the respondent.

3.1 Shri V. Ravindran Ld. Counsel for the appellant, submitted a Table giving a snap shot of the dispute, which is reproduced below:

TABLE

Impugned order	Issue in brief	Period of dispute	Amount of Service Tax demanded with interest and penalty
OIO No.CBE/ST /30/2016 ST Adj. dated 18.11.2016 SCN No.16/2015 Commr. dated 17.07.2015.	Demand of Service Tax allegedly payable under Reverse Charge Mechanism on Works Contract Service, Supply of Manpower Service and rent-a-cab operator's service.	01.07.2012 to 31.03.2014	Works contract = Rs.2,90,07,550/- Manpower supply= Rs. 4,67,357/- Rent-a-cab = Rs. 1,93,997/- Total = Rs.2,97,07,550/- Penalties U/S 77(1) = Rs. 50,000/- U/S 77(2) = Rs. 10,000/- U/S 78 = Rs.1,48,53,775/-

He submitted that:

- A. The appellant is a 100% Government of Tamil Nadu-owned PSU, constituted under Section 131 of the Electricity Act, 2003, functioning as a State Transmission Utility exclusively engaged in transmission of electricity.
- B. Taxes on consumption or sale of electricity fall under Entry 53 of List II of the Seventh Schedule to the Constitution, within the exclusive legislative domain of States under Article 246(2). Consistent with this constitutional position, services relating to transmission and distribution of electricity were exempt from service tax prior to 01.07.2012 under Notifications 11/2010-ST and 32/2010-ST, with retrospective protection granted by Notification 45/2010-ST.
- C. With effect from 01.07.2012, transmission and distribution of electricity by an electricity utility were placed in the Negative List under Section 66D, which was declaratory in nature, reaffirming the constitutional non-taxability of such activities.
- D. The present appeal concerns the sustainability of service tax demands on Works Contract, Manpower Supply and Rent-a-Cab services received during 01.07.2012 to 31.03.2014, and the legality of appropriation of tax already paid.
- E. The Show Cause Notice dated 17.07.2015 alleged non-registration, non-payment of service tax under reverse charge, and non-filing of returns. Although the appellant subsequently registered and discharged the entire tax liability in 2014, the impugned order confirmed the demand with interest and imposed penalties under Sections 77 and 78, while dropping penalty under Section 76.

F. The appellant challenges the impugned order on merits and limitation, relying on settled judicial precedent and exemption notifications which consistently hold that all services “for” or “relating to” transmission and distribution of electricity are exempt, including during the Negative List and GST regimes. The expressions “for” and “relating to” have been accorded wide amplitude by courts and tribunals.

G. All disputed services were essential, integrally connected, and exclusively used for transmission of electricity, and therefore squarely covered by the exemptions and Section 66D. He relied on the following judgments in support of his averments:

CITATION	FACTS	DECISION
Kedar Constructions v. CCE 2014 (11) TMI 336 - CESTAT MUMBAI	<p>5. We notice that out of the total demand confirmed of ₹ 2,04,14,368/- bulk of the demand of ₹ 1,90,47,124/- pertains to Commercial or Industrial Construction service rendered to Maharashtra State Electricity Transmission Co. Ltd., Maharashtra State Electricity Distribution Co. Ltd., Sunil Hi-Tech, Suraj Constructions, V.B. Bhike, etc. for transmission of electricity. Vide Notification 45/10-ST, all taxable services rendered 'in relation to' transmission and distribution of electricity have been exempted from the purview of service tax. <u>The expression 'relating to' is very wide in its amplitude and scope as held by the Hon'ble Apex Court in Doypack Systems P. Ltd. [1998 (36) ELT 0201 (SC)].</u> Therefore, all taxable services rendered in relation to transmission/distribution of electricity would be eligible for the benefit of exemption under the said Notification for the period prior to 27.02.2010.</p> <p>6. As regards the demand for the period w.e.f. 27.02.2010, the said exemption is available if the taxable services are rendered for transmission of electricity. <u>As held by the Hon'ble Apex Court in the case cited supra the expression "for" means 'for the purpose of'. As per the definition of transmission (given in the Electricity Act, 2003), IT COVERS A VERY WIDE GAMUT OF ACTIVITIES</u> including sub-station and equipments. Therefore, the various activities undertaken by the appellant, though classifiable under Commercial or Industrial Construction prior to 01.06.2007 or under works contract service on or after 01.06.2007, would be eligible for the benefit of exemption as held by this Tribunal in the case of Noida Power Co. Ltd., Pashchimanchal Vidyut Vitran Nigam, Purvanchal Vidyut Vitran Nigam and Shri Ganesh Enterprises cited supra.</p>	
Shri Ganesh Enterprises v CCE 2014 (2)	Among the taxable services provided were 'management, maintenance or repair service'	.. by Notification No. 45/2010-ST dt. 20/07/2010, in exercise of powers conferred by Section

<p>TMI 436 - CESTAT BANGALORE</p>	<p><i>involving manning and maintenance of sub-stations; 'erection, commissioning or installation service' for erection of electrical lines of different capacities and transport of material from one location to another including - erection of sub-stations and allied services; transport of goods by road for transport of failed/repaired transformers and other material of the distribution companies; rent-a-cab operator service, provided to the distribution companies for transport of their personnel; Business Auxiliary Service by establishing' Customer Service Centres on behalf of distribution companies; and 'manpower recruitment and supply agency service', by supply of semi-skilled labour for attending to maintenance works in the sub-divisions of the distribution companies.</i></p>	<p><i>11 C of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994, granted immunity from the liability to remit service tax in respect of any taxable service provided in relation to transmission and distribution of electricity, during the period upto 26/02/2010. As consequence of this immunity Notification, the service tax liability of the petitioner for the several taxable services provided to electricity distribution companies of Andhra Pradesh during 01/04/2004 to 30/11/2009, stands eclipsed.</i></p>
<p>Paschimanchal Vidyut Vitran Nigam Ltd. v. CCE 2012 (8) TMI 688 CESTAT NEW DELHI</p>	<p><i>... apart from transmission of electricity, the appellant assessee was also engaged in the business of "erection, commissioning and installation" as also "technical testing and analysis" which according to the department, were subject to levy of service tax ...</i></p>	<p><i>14. ... any activity or service like erection, commissioning and installation of meters as also technical testing and analysis can easily be termed as the service relating to the transmission and distribution of electricity provided by the service provider to the service receiver. Thus, in our considered view such service, which is subject matter of this appeal, would be squarely covered under the exemption.</i></p>
<p><i>Noida Power Company Ltd. v CCE 2013 (8) TMI 746 - CESTAT NEW DELHI</i></p>	<p><i>The network involves installation, erection, commissioning of transmission towers and connectors for transmitting energy to various consumers for supply of HT & LT electricity and installation of meters to measure consumption of monthly energy. The assessee recovers the charges for these services ...</i></p>	<p><i>5. On true and fair analysis of the Exemption Notification dated 22.06.2010 and the immunity Notification dated 20.07.2010 the conclusion is compelling that all taxable services provided in relation to distribution of electrical energy are exempt from the liability to service tax. The expression in relation to is of wide import and indicates all activities having a direct and proximal nexus with distribution of electrical energy. Distribution of electricity energy cannot be effectively accomplished without installation of sub-stations, transmission towers and installation of meters to record electricity consumption for periodic billing and recovery of charges.</i></p>

<p>S.K.Shah v. CCE&ST 2019 (2) TMI 1103 CESTAT MUMBAI</p>	<p>appellant .. rendered various taxable services namely, construction service, maintenance and repair service etc. to M/s Maharashtra State Electricity Distribution Company Ltd. ... during the period 01.4.2007 to 31.3.2012.</p>	<p>5. We find that by virtue of Notification No. 45/2010-ST dated 20.7.2010, transmission and distribution of electricity for the period upto February, 2010 has been retrospectively held to be not leviable to Service Tax in exercise of powers conferred by Section 11C of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994. Subsequently, the transmission of electricity has been held exempted vide Notification No. 11/2010- ST dated 27.2.2010 and distribution of electricity under Notification No. 32/2010-ST dated 22.6.2010.</p>
<p>CC.,CEX & ST Hyderabad III Vs Sri Rajyalakshmi Cement Products 2017 (52) STR 309 (Tri. Hyd.)</p>	<p>Erection, Commissioning or Installation Services (ECIS) - Liability to tax - In terms of Notification No. 45/2010-S.T., all taxable services relating to transmission and distribution of electricity provided by any service provider not taxable for period up to 26-2-2010 and up to 21-6-2010 respectively for services relating to transmission and distribution of electricity - Dropping of proceedings by adjudicating authority relying on C.B.E. & C. Circular No. 123/5/2010-TRU, dated 24-5-2010 proper. [para 5]</p>	
<p>MD Aub Khan Vs CC, CEx,& ST, Guntur 2015(40)STR 267 (Tri.Bang.)</p>	<p>Demand - Service Tax - Manpower Supply Service - Transmission and distribution of electricity - Exemption Notification No. 45/2010-S.T., eligibility - Appellant providing manpower supply services to a company exclusively engaged in providing transmission and distribution of electricity - Impugned notification exempting all services provided in relation to transmission and distribution of electricity, services provided by appellant fully exempt - Denial of exemption on ground that service was provided prior to transmission and distribution of electricity, not tenable - Nothing in impugned notification to hold so - Demand not sustainable. [paras 2, 3]</p>	
<p>Hyderabad Power Installations (P) Ltd. Vs CCCE, C. & ST., Hyderabad II [2016(45) STR 217 (Try.Hyd.)]</p>	<p>Erection, Commissioning or Installation Services (ECIS) - Service Tax - Notification No. 45/2010-S.T., dated 20-7-2010 clarified that no Service Tax required to be paid for all services relating to transmission of electricity upto 26-2-2010 and for all services relating to distribution of electricity upto 21-6-2010 - Hence, Service Tax not payable on Erection, Commissioning or Installation Services. [paras 8, 9]</p>	
<p>Torrent Power Ltd. v. UoI 2019 (1) TMI 1092 & Jodhpur Vidyut Vitran Nigam Ltd v. UoI 2021 (2) TMI 557</p>	<p>Hon'ble High Courts held that categorically asserted in favour of the appellant, by applying the Board's circular to interpret the applicability of exemption for transmission and distribution of electricity, not merely on service tax prior to and after Negative List, but also during GST regime.</p>	
<p>Tangedco Vs CC, CGST & CE, Chennai</p>	<p>"9.... As per the discussions at Para 7 and the judgements above, it is clear that all taxable services provided for the transmission and distribution of electrical energy are exempt from the liability</p>	

<p>2024(18) Centax 145 (Tri. Mad)</p>	<p>to service tax during the impugned period. The sole purpose of the impugned activities as described above are "for" ensuring transmission and distribution and are part of the appellant's statutory functions and are hence done "for" transmission and distribution of electric power to various consumers located within the state of Tamil Nadu in terms of the provisions of the Electricity Act, 2003. Without the said services being rendered transmission and distribution of electricity would be impaired. This being so the activities though being taxable services are covered by the exemption notification stated above prior to 01.07.2012 and from the said date they figure in the negative list as per Section 66 D (k) of the Finance Act, 1994. Hence the appeal succeeds.</p> <p>10. Since the issue has been decided on merits in favour of the appellant, the question of paying duty, interest, penalties or of invoking the extended period does not arise."</p>
<p>Gujarat Energy Transmission Corporation Ltd. Versus Commissioner of Central Excise & Service Tax, Anand</p> <p>(2024) 17 Centax 258 (Tri.-Ahmd)</p>	<p>Erection, Commissioning, and Installation Service - Exemption - Erection of bays, sub-stations and transmission lines by State Transmission Utility/assessee by receiving works contract service from EPC Contractors - For such services, assessee recovered from consumers various charges such as erection charges, contingency charges, supervision charges, development charges etc. - Show cause notices was issued on 20-10-2014 and 10-4-2015 for periods 2009-10 to 2012-13 and 2013-14 respectively, demanding service tax under category of Erection, Commissioning and Installation Service in Section 65(105)(zzd) of Finance Act, 1994 on various charges recovered by assessee from consumers, and Service tax to extent of 50% under reverse charge on works contract service received by assessee - HELD : Assessee provided these services in relation to transmission of electricity which was exempted for relevant period under Notification Nos. 45/2010-ST, dated 20-7-2010, 11/2020-ST, dated 27-2-2010 and as per negative list under Section 66D of Finance Act, 1994 - Hence, demand was to be set aside and appeals were allowed - Section 65(105)(zzd) read with Section 66 of Finance Act, 1994. [para 6]</p> <p>Demand and recovery (Service Tax) - Limitation period - Extension of period - To demand interest on Cenvat credit reversed without utilisation, show cause notice was issued on 20-10-2014 for periods 2009-10 to 2012-13 invoking extended period - However, there was no suppression of facts on part of assessee - HELD : For demand of interest, longer period could not be invoked - Section 73 of Finance Act, 1994. [para 7]</p>

H. Further, the Show Cause Notice issued on 17.07.2015 covers a period partly beyond the normal limitation of 30 months. The invocation of extended limitation is unsustainable, as the issue is interpretational, the appellant is a government entity, and there was no suppression or mala fide intent.

I. Accordingly, the demand, interest and penalties are unsustainable, and the appellant prays that the appeal be allowed with

consequential relief, including refund of service tax paid and appropriated.

3.2 Shri Sanjay Kakkar the Ld. Authorized Representative, who appeared for revenue, reiterated the points given in the findings of the impugned order. He stated that:

A. TANTRANSCO does not sell electricity but merely transmits it on behalf of TANGEDCO, as reflected in its accounts showing income from transmission charges. While transmission for consideration constitutes a service under Section 65B(44), such services are expressly exempt under Section 66D(k), and no tax is proposed on transmission charges.

B. Under Section 66F(1) of the Finance Act, 1994, a reference to a main service does not include services used to provide that main service, unless expressly stated otherwise.

C. The present notice concerns works contract services received by TANTRANSCO for construction, erection, and commissioning activities, which the noticee does not dispute fall within Section 65B(54). The service portion of a works contract is a declared service under Sections 65B(22) and 66E(h) and is taxable under Section 66B. The service recipient, TANTRANSCO, is liable to pay 50% of the service tax under the reverse charge mechanism, by virtue of Notification No. 30/2012-ST read with Section 68(2).

D. Reliance on the erstwhile circular issued under Section 65(25b) is misplaced, as that provision ceased to apply from 01.07.2012 and, in any event, did not exempt construction of substations, transmission lines, or related infrastructure.

E. The same reasoning applies to manpower supply and rent-a-cab services, which are also taxable under the reverse charge mechanism.

Accordingly, the service tax demands proposed against TANTRANSCO as the service recipient are sustainable.

F. The Ld. A. R. referred to the judgment of CESTAT Mumbai in **MSC Agency (India) Pvt Ltd Vs Commissioner of Central Excise, Thane II** [2014 (6) TMI 592 – CESTAT Mumbai], to state that bonafide belief is not blind belief and that no evidence has been led to show that the appellant took all reasonable precautions, hence the SCN invoking the extended period was valid. He further stated that the judgments cited by the appellant, mostly relate to the pre-negative list period and are not relevant in deciding the case.

The Ld. A. R. prayed that the appeal may be rejected.

4. Heard the parties and perused the appeals and connected documents.

5. The dispute relates to the period from 01.07.2012 to 31.03.2014, after the introduction of the Negative List, as set out in Section 66D of the Finance Act, 1994. The relevant portions of the concerned sections are reproduced below:

SECTION 66B. Charge of service tax on and after Finance Act, 2012.— There shall be levied a tax (hereinafter referred to as the service tax) at the rate of fourteen percent on the value of all services, **other than those services specified in the negative list**, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.

SECTION 66D. Negative list of services.— The negative list shall comprise of the following services, namely :—

"(k) transmission or distribution of electricity by an electricity transmission or distribution utility:"

(emphasis added)

Hence Section 66D(k) of the Act excludes "transmission or distribution of electricity by an electricity transmission or distribution utility", from service tax. The issue is whether the Works Contract, Manpower Recruitment, and Rent-a-Cab services received by the appellant were used for transmission or distribution of electricity and are therefore non-taxable, or whether, in terms of Section 66F(1) of the Finance Act, 1994, they remain taxable as services used to provide the main service.

5.1 There is no dispute that the exclusion of transmission or distribution of electricity by an electricity transmission or distribution utility, by inclusion in the Negative List, **is an entity specific exemption for a specific activity** which is a general public utility and that the appellant is eligible for the same.

5.2 The dispute stems from the fact that while Section 66D(k) excludes transmission or distribution of electricity by a utility, it does not expressly extend the exclusion to direct or ancillary services. However, transmission or distribution of electricity cannot be done in a vacuum and require the involvement of a transmission or distribution system supported by direct or ancillary services in successfully undertaking the said service. The principle that tax relief provisions for public utility services should be broadly or liberally construed to advance the legislative intent of public benefit is well-established in Indian tax jurisprudence.

5.3 The scope of the expression "transmission or distribution of electricity" may be understood with reference to the **Electricity Act, 2003**.

- a. As per section 2(74) of the said Act, 2003, '**transmission**' has been defined to include conveyance of electricity by means of transmission lines.
- b. As per section 2(72) of the said Act, "**transmission lines**" means all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch-gear and other works.
- c. As per section 2(19) "**distribution system**" means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers;
- d. As per section 2(77), "**works**" includes electric line, and any building, plant, machinery, apparatus and any other thing of whatever description required to transmit, distribute or supply electricity to the public and to carry into effect the objects of a licence or sanction granted under this Act or any other law for the time being in force.
- e. As per Rule 4 of the Electricity Rules 2005 – "**Distribution System**" - "The distribution system of a distribution licensee in terms of sub-section (19) of Section 2 of the Act shall also include electric line, sub-station and electrical plant that are primarily maintained for the purpose of distributing electricity in the area of supply of such distribution licensee notwithstanding that such line, sub-station or

electrical plant are high pressure cables or overhead lines or associated with such high pressure cables or overhead lines; or used incidentally for the purposes of transmitting electricity for others.”

The expression is therefore of wide amplitude and would include all direct and ancillary services connected with transmission and distribution of electricity.

6. The taxability of services connected with transmission or distribution of electricity under the Negative List of the Finance Act 1994 and CGST Act was examined by the Hon'ble Gujarat High Court in **Torrent Power Ltd. Vs UoI** [2019 (1) TMI 1092]. While considering the challenge to the Board's Circular dated 01.03.2018, the Court held that charges such as application fees, meter rent, and testing fees, being directly and closely connected with transmission or distribution of electricity, are exempt under Entry 25 of Notification No. 12/2017 dated 28.06.2017, and observed as follows:

“12. The first question that arises for consideration is whether services relating to transmission and distribution of electricity fall within the ambit of clause (k) of section 66D of the Finance Act and, are therefore, exempt. In this regard, it may be noted that prior to the coming into force of the negative list regime, goods and services were exempted by virtue of notifications issued in exercise of powers under sub-section (1) of section 93 of the Finance Act. By virtue of Notification No. 11/2010 dated 27.2.2010, the Central Government exempted transmission of electricity from the whole of service tax leviable thereon under section 66 of the Finance Act; and by virtue of Notification No.32/2010-Service Tax dated 22.6.2010, distribution of electricity came to be exempted from the whole of service tax leviable thereon under section 66 of the Finance Act. Thus, what was exempt under those provisions was transmission and distribution of electricity, despite which, during the pre-negative list regime, the respondents have considered services related to transmission and distribution of electricity as exempted from service tax by virtue of those notifications. Insofar as electricity meters are concerned, **vide circular No.131/13/2010-ST dated 7.12.2010, it was clarified that supply of electricity meters for hire to consumers**

being an essential activity, having direct and close nexus with transmission and distribution of electricity, the same is covered by the exemption for transmission and distribution of electricity extended under relevant notifications.

13. Thus, the reason for saying that supply of electricity meters for hire to consumers is covered by the exemption notification is that such service is **an essential activity having direct and close nexus with transmission and distribution of electricity**. This circular only provides an interpretation of when a service would stand included in another service, namely, when such service is an essential activity having direct and close nexus with the exempted activity. **Therefore, the fact that the exemption notifications came to be rescinded would have no bearing inasmuch as the circular only clarifies what according to the Government of India would stand included in another service. Such interpretation would not change merely because such exemption is now granted under some other provision.**

14. It may be noted that insofar as the exemptions prior to the negative list regime as well as post the negative list regime are concerned, it is the transmission and distribution of electricity that has been exempted by virtue of notifications. During the negative list regime, transmission and distribution of electricity has been placed in the negative list. **Therefore, in all the three phases, what was exempted was "transmission and distribution of electricity"**. However, while for the pre-negative list phase, the respondents considered the services related to transmission and distribution of electricity as exempt under the exemption notifications, for the negative list regime and the GST regime, they seek to exclude such services from the ambit of transmission and distribution of electricity. From the affidavits-in-reply filed on behalf of the respondents, there is nothing to show as to how the very services, which stood included within the ambit of transmission and distribution of electricity now stand excluded. The sole refrain of the respondents is that in view of the fact that the exemption notification stands rescinded, the clarification also stands rescinded. What is lost sight of is that the clarification was only in respect of electric meters, whereas all related services were included within the ambit of transmission and distribution of electricity and given the benefit of the exemption notifications. Moreover, the clarificatory circular merely clarifies the stand of the Government as regards what would stand included within the meaning of "transmission and distribution services" namely, essential activities having direct and close nexus with the transmission and distribution of electricity. The respondents having themselves considered the services in question as being covered by the exemption for

transmission and distribution of electricity as such services were essential activities having a direct and close nexus cannot be now permitted to take a U-turn and seek to exclude such services without pointing out any specific change in the nature of the exemptions, except that they are provided under different statutory provisions. **In the opinion of this court, the meaning of "transmission and distribution of electricity" does not change either for the negative list regime or the GST regime.** If that be so, the services which stood included within the ambit of transmission and distribution of electricity during the pre-negative list regime cannot now be sought to be excluded by merely issuing a clarificatory circular, that too, with retrospective effect. By the clarificatory circular, the respondents seek to give a different interpretation of the very same services as against the clarification issued for the pre-negative list regime.

15. Thus, from the very manner in which the respondents have treated the services related to transmission and distribution of electricity during the pre-negative list regime, such services would stand covered by the exemption granted to transmission and distribution of electricity by virtue of inclusion of such services in the list of negative services under section 66D (k) of the Finance Act as well as by virtue of exemption notification issued under the CGST Act.

16. Examining the issue from the **alternative argument** advanced on behalf of the petitioners, if related services are *per se* not covered within the ambit of transmission and distribution of electricity, the question that next arises for consideration is whether such services would fall within the ambit of bundled services as contemplated under section 66F (3) of the Finance Act and within the ambit of "composite service" as defined under section 2 (30) of the CGST/SGST Acts, and, therefore, liable to be taxed at the rate of the principal supply. Another question is whether section 66F (3) of the Finance Act would cover cases where the single service which gives such bundle its essential character is placed in the negative list and section 8 of CGST/SGST Acts would cover the cases of composite supply where exemption from service tax has been granted in respect of the principal supply.

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24. It has been contended on behalf of the respondents that sub-section (3) of section 66F of the Finance Act would not apply where the single service which gives the bundle of services its essential character is exempt from the levy of service tax. In the opinion of this court, there is nothing in the language employed in sub-section (3) to section 66F to read into it a requirement that such service should not be exempt from tax. All that the sub-section provides is that

taxability of bundled services shall be determined in the manner provided therein. **The term taxability means liability to taxation. Thus the term taxability would take within its sweep not being taxable also inasmuch as liability to taxation would also mean not being liable to any tax.** Thus, the liability to tax of a bundled service has to be determined in the manner provided under sub-section (3) of section 66F of the Finance Act. If the services are naturally bundled in the ordinary course of business, the bundle of services shall be treated as provision of the single service which gives the bundle its essential character and where the services are not naturally bundled in the ordinary course of business, the same is required to be treated as provision of the single service which results in highest liability of service tax. **Accordingly, where the services are naturally bundled in the ordinary course of business and the single service which gives such bundle its essential character is exempt from tax, the entire bundle will have to be treated as provision of such single service.**

25. **Thus, insofar as the phase relating to the negative list regime is concerned, the services in question would fall within the ambit of bundled services as contemplated under subsection (3) of section 66F of the Finance Act, and would have to be treated in the same manner as the service which gives the bundle its essential character, namely, transmission and distribution of electricity and, would therefore, be exempt from payment of service tax."**

(emphasis added)

7. The Hon'ble Rajasthan High Court in **Jodhpur Vidyut Vitran Nigam Ltd Vs UoI** [2021 (2) TMI 557], while examining the taxability of services under CGST, such as application fees, meter rentals, testing charges, labour charges for shifting meters/service lines, and charges for duplicate bills, as clarified by the Board vide Circular dated 01.03.2018, expressly concurred with the view of the Hon'ble Gujarat High Court in **Torrent Power Ltd.** (supra).

8. The issue examined by the High Courts was whether services relating to transmission and distribution of electricity are covered under section 66D(k) of the Finance Act and hence exempt. It was held that during the pre-negative list regime, such services were

consistently exempted by notification. Circular No. 131/13/2010-ST dated 7.12.2010 clarified that supply of electricity meters on hire, being an essential activity having a direct and proximate nexus with transmission and distribution, is covered by the exemption. Mere rescinding of exemption notifications does not alter this position, as the circular only clarifies the scope of the exempt service. The revenue, having earlier accepted such services as exempt, cannot subsequently take a contrary stand in the absence of any material change in law. The High Court has held that the meaning of "transmission and distribution of electricity" remains unchanged under the negative list as well as GST regime. Accordingly, the said services are exempt under section 66D(k). Even otherwise, being naturally bundled with the principal exempt service, they are liable to be treated as bundled/composite services and enjoy the same exemption.

9. The judgments dealt with an **entity-specific exemption** from **forward charge** of duty for a specified activity, **provided** by electricity transmission or distribution utilities to consumers. However, the present dispute stands on a slightly different footing as it concerns tax demanded under **partial reverse charge** basis, for services **received** by the appellant albeit for transmission or distribution of electricity. However, though not averred to by the appellant, the issue can be looked at from another angle in the case of an entity-based exemption. **If an entity qualifies for an exemption from forward charge for the specified activity of transmission and distribution of electricity, the same exemption should also apply to that entity under partial reverse charge for the said activity.**

10. Hence as held by the two High Court judgments above, [**Torrent Power Ltd / Jodhpur Vidyut Vitran Nigam**], the expression "transmission and distribution of electricity" encompasses not only the core activity but also all direct and ancillary services having a proximate and integral nexus, without which transmission or distribution would not be possible or commercially impracticable. To determine whether (i) works contract, (ii) manpower recruitment, and (iii) rent-a-cab services involve such a relationship and are thereby exempt, it may be appropriate to employ what is called as "**the dependence test**" to see whether the impugned services are integrally connected with the entire process of transmission or distribution of electricity without which such service would be impossible or commercially inexpedient. A similar view was adopted by a Coordinate Bench of this Tribunal in Tangedco Vs CC, CGST & CE, Chennai [2024(18) Centax 145 (Tri. Mad)].

11. The appellant's in their written submissions have submitted the Table given below stating whether the three activities are related to the transmission and distribution of electricity.

Activity →	Works contract Service	Supply of Manpower Service	Rent-a-cab service
Whether it answers ↓			
Whether it relates to transmission of electricity	Yes, relates as the same is erection, commission of towers, tower lines and sub-stations, construction of buildings and structures and related works at the sub-station under their supervision.	Yes, it relates	Yes, it relates
Whether it is for the purpose of transmission of electricity	Yes, it is for the purpose	Yes, it is for the purpose	Yes, it is for the purpose
Whether the service is rendered by a	Yes, it is by an utility under Electricity Act, 2003.	Yes, it is for the purpose	Yes, it is for the purpose

person authorized to distribute power			
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12. As discussed above, the issue being examined pertains to an entity-specific exemption for a specified activity, for which tax is demanded under partial reverse charge basis. 'Works contract services' relating to erection, commissioning, installation and dismantling of transmission towers, lines and substations, as well as construction and allied works at substations, are indispensable for transmission and distribution of electricity. Likewise, 'manpower services' for handling movement of men and materials and for safeguarding offices, stores and vehicles are integrally connected with such activity. However, hiring of motor vehicles for official use (rent-a-cab service) does not have a direct and proximate nexus with transmission or distribution of electricity and is therefore not eligible for exemption under reverse charge. Hence the said service would not be exempted from the payment of tax on partial reverse charge basis. However as per our findings above we find that the issue involves complex legal issues and does not disclose any deliberate attempt on the part of the appellant to evade duty. In fact, duty involved on the said service found dutiable is less than Rs two lakhs. The Supreme Court in **Easland Combines, Coimbatore Vs Collector of Central Excise, Coimbatore** [(2003) 3 SCC 410 = 2003 (152) E.L.T. 39 (S.C.)], clarified that mere non-payment of duty or failure to obtain registration, absent of fraud, suppression, or willful misstatement, is insufficient to attract the extended limitation period. This principle was reaffirmed in **Uniworth Textiles Ltd. Vs Commissioner of Central Excise, Raipur** [2013 (288) E.L.T. 161 (S.C.)] wherein the Apex Court

citing **Easland Combines** (supra), held that the Act contemplates a positive action which betrays a negative intention of willful default. Hence while the demand warrants to be dropped on merits in the case of 'works contract service' and 'manpower service', the SCN is time barred in the case of 'rent-a-cab service'.

13. We accordingly set aside the impugned order. The appellant is eligible for consequential relief. The appeal is disposed of accordingly.

(Order pronounced in open court on 24.03.2026)

Sd/-
(AJAYAN T.V.)
Member (Judicial)

Sd/-
(M. AJIT KUMAR)
Member (Technical)

Rex