Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO. 02

Service Tax Appeal No. 12110 of 2014

[Arising Out Of OIO-SUR-EXCUS-001-COM-107-13-14 Dated- 31/01/2014 passed by the Commissioner of Central Excise, Customs and Service Tax -SURAT-I)

Surat Cable Network **.....Appellant**
5, Crystal Chopping Centre,
Behind Mahalaxmi Temple, Adajan,
SURAT, GUJARAT

VERSUS

CGST & Central Excise-Surat **.....Respondent**
New Central Excise Building,
Opp. Gandhi Baug, Chowk Bazar,
Surat-395001.

WITH
Service Tax Appeal No. 12142 of 2014

[Arising Out Of OIO-SUR-EXCUS-001-COM-107-13-14 Dated- 31/01/2014 passed by the Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

CGST & Central Excise-Surat **.....Appellant**
New Central Excise Building,
Opp. Gandhi Baug, Chowk Bazar,
Surat-395001.

VERSUS

Surat Cable Network **.....Resondent**
5, Crystal Chopping Centre,
Behind Mahalaxmi Temple, Adajan,
SURAT,,GUJARAT

APPEARANCE:
Shri. Amber Kumrawat, Advocate (Amicus Curiae) for the Appellant
Shri. Rajesh Nathan, Assistant Commissioner (AR) for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

Final Order No. 10569-10570 /2025

DATE OF HEARING:14.07.2025
DATE OF DECISION:14.07.2025

SOMESH ARORA

These are two appeals, one filed made by the appellant against confirmation of demand of service tax and the other by the department against allowing of Cenvat Credit of Rs. 74,21,511/- on account of various invoices some of which were not signed though computer generated, some were computer generated not signed and also of different address and the third category was in relation to signed invoices but having different address of the recipient. The appeal is filed by the appellant in this matter in which a sum of around Rs. 37,000/- has been worked out and sustained against them on the basis of ST-3 returns and books of accounts. As per Amicus Curiae, there is no basis provided for sustaining the demand nor there is any information available to allow the party to peruse as to on what basis is the demand is made.

2. Both sides are aggrieved by the impugned order dated 31.01.2014. We take up first the issue of Cenvat Credit worked out and allowed by the Commissioner as Adjudicating Authority. We find that the Commissioner has relied upon various judgments and allowed the benefit on the basis that the underlying transactions and their authenticity is not doubted so, substantive benefit cannot be disallowed for only procedural lapses as have been enumerated above. Giving benefit to the party, he reasoned that substantive transactions are not doubted by the department in the show cause notice and various procedural lapses only have been found by it. Same cannot be denied on the basis of various case laws which are reproduced in his order and citations which were also added by Amicus Curiae in para-12-20 of his compilation:-

- Poornam Info Vision Vs CCE -2019 (365) E.L.T. 592 (Tri. - Bang.)
- CCE Vs A.B. Mauri India Pvt. Ltd -2018 (8) G.S.T.L. 209 (Tri. - Bang.)
- Bechtel India Private Limited v. CST, Delhi-2023 (9) TMI 655- CESTAT CHANDIGARH Tata AIG General Insurance Co. Ltd. v. CST, Mumbai-2023 (11) TMI 472- CESTAT MUMBAI
- Cholamandlam MS General Insurance Co. Ltd. Vs. CGST, Chennai-2021 (3) TMI 24- CESTAT CHENNAI
- Right Step Consulting Pvt. Ltd. Vs. CCE & CGST, Ghaziabad-2023 (8) TMI 614- CESTAT ALLAHABAD
- Kamakhya Steels (P) Ltd. Vs. CCE, Meerut-2000 (121) ELT 247 (Tribunal-LB)
- CCE & Customs, Vs. Steelco Gujarat Ltd. -2010 (255) ELT 518 (Guj.)
- Bajaj Tempo Ltd. Vs. CCE & Customs, -1999 (106) ELT 145 (T)

3. The learned AR opposes the relief and requests for setting aside the order allowing Cenvat Credit. He relies on the decision in the case of Commissioner of CEX & Customs, Vadodara-II Vs,. Steelco Gujarat Ltd reported at 2010 (255) ELT 518 (Guj.)

4. We have considered the rival submissions. We find that the order of the Commissioner is well founded and based on reasoning adopted by various citations which are supplemented by the case law provided by Amicus Curiae in the matter. We find that the decisions mentioned by the Learned AR are distinguishable in so far as there were reasonable doubts raised about the underlying transaction and substantive benefits itself in that matter. As against, this the plethora of case law relied upon by the learned Commissioner as well as provided by the Amicus Curiae justifies the reasoning and the decision taken by the Commissioner. We therefore uphold the decision on the aspect of Cenvat Credit by the learned Commissioner.

4.1 On the second issue which pertains to period April 2005 to March 2008 involving differential service tax raised over and above the amount agreed upon by the appellants. The same has been upheld without providing adequate reasons for working of the same by the department. The order therefore, leaves much to be desired on this aspect of the demand. We, therefore, on this aspect remand the matter back to the original authority to provide materials to the appellants to defend the case including working if any of this differential demand. While considering quantum of the working, the original authority should also consider if the same is hit by limitation or not. Matter is remanded to that extent only.

5. Department's appeal rejected and party's appeal is allowed by way of remand. The Bench appreciates the genuine and sincere efforts put in by the Amicus Curiae to assist in the absence of anyone from the respondent side in both the matters.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Prachi