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

REGIONAL BENCH- COURT NO. 02

Excise Appeal No. 10177 of 2022
[Arising Out Of OIA-CCESA-SRT-APPEAL-PV-055-056-2021-22 Dated- 29/12/2021 passed Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

MS SMITA CONDUCTORS LTD **.....Appellant**
Survey No 8 Khutali, Silvassa
Ut D And N H

VERSUS

C.C.E. & S.T.-DAMAN **.....Respondent**
3rd Floor...Adarsh Dham Building,
Vapi-Daman Road, Vapi Opp.Vapi Town Police Station,
Vapi, Gujarat-396191

WITH

Excise Appeal No. 10178 of 2022
[Arising Out Of OIA-CCESA-SRT-APPEAL-PV-055-056-2021-22 Dated- 29/12/2021 passed Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

SHRI K G UNNIKRISHNAN **.....Appellant**
General Manager Cum Authorised Signatory
Ms Smita Conductors Ltd Survey No 8 Khutali
Silvassa, Ut D And N H

VERSUS

C.C.E. & S.T.-DAMAN **.....Respondent**
3rd Floor...Adarsh Dham Building,
Vapi-Daman Road, Vapi Opp.Vapi Town Police Station,
Vapi, Gujarat-396191

APPEARANCE:
Shri. Vipul Khandhar, Chartered Accountant for the Appellant
Shri. Himanshu Nachane, Superintendent, (AR) for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)

Final Order No. 10092-10093/2026

DATE OF HEARING:13.02.2026
DATE OF DECISION:13.02.2026

SOMESH ARORA

In the instant case, the main unit of the ISP providers, Semi Conductors Limited was located in Bombay with their sub unit at Silvasa and Ghaziabad. The unit at Bombay was ISD distributors which was receiving banking services from various banks and was also getting periodic bank statements. I though the statement did not include the separated service tax amount while debiting the amount in the bank statement. The party of its own by adopting its calculation on cum duty basis worked out the total amount of service tax debited by the bank and also procured certificate of the bank to that effect duly reconciled with their figures. The department found that the whole exercise and because the amount was not indicated separately and was not on invoice which was issued by the bank, found the same inadmissible, during the course of the audit.

2. Learned Chartered Accountant while pleading his case draws attention of this Court to Rule 4A which was amended by carrying out an amendment adding proviso to Rule 4A of Service Tax Rules, 1994 as follows:

> *"(1) Every person providing taxable service[, not later than [thirty] days from the date of [completion] of such taxable service or receipt of any payment towards the value of such taxable service, whichever is earlier, shall issue an invoice, a bill or, as the case may be, a challan signed by such person or a person authorized by him in respect such taxable service provided or [agreed to be provided and such invoice, bill or, as the case may be, challan shall be serially numbered and shall contain the following, namely:- (i) the name, address and the registration number of such person; (ii) the name and address of the person receiving taxable service; (iii) description and value of taxable service provided or agreed to be provided; and (iv) the service tax payable thereon.*
>
> *[Provided that in case the provider of taxable service is a banking company or a financial institution including a non-banking financial company providing service [to any person]. an invoice, a bill or, as the case may be, challan shall include any document, by whatever name called, whether or not serially numbered, and whether or not containing address of the person receiving taxable service but containing other information in such documents/as required under this sub-rule:]"*

3. The amendment was brought in after insertion was made by the service tax (4^{th} amendment) Rules, 2004 w.e.f 22.09.2004. The period

involved in this show cause notice is 2006-2007 to 2010-2011. The show cause notice was issued on 2011. It is thus clear that the amendment was very much part on the statute as for period for which the show cause notice was issued. And after going through the show cause notice, this Court is convinced that the purpose of amendment as well as the provision contained therein has been totally ignored by the department while raising his audit objection which is part of the impugned show cause notice and the decision has been based on such objection. Since, the amendment is explicit and even the bank statements or any other documents exhibiting duty are to be taken at the same level of evidential value as any invoice issued in other cases, this Court views that the statement is very much permissible as per the above proviso for to the banks to be issued and is the very much a permissible document. The appellant have worked out the duty contained in various transactions of the bank while distributing credit to other sub units by working it out on the basis of cum duty and also have lately produced the certificate from the bank periodically indicating what was amount charged by the bank which tallies with their calculation.

4. In view of the going, it appears there is no discrepancy in the credit as distributed by the ISD to its field units. Appeal is therefore liable to be accepted, same is accepted with consequential relief.

5. Appeal allowed.

(Dictated and pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi