CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Excise Appeal No.70187 of 2021

(Arising out of Order-in-Appeal No.NOI-EXCUS-001-APP-924-2020-21 dated 27.01.2021 passed by Commissioner (Appeals) CGST, Noida)

M/s SMR Automotive Systems India Ltd., ...Appellant
(B-11 & 12, Sector-85, Gautam Buddha Nagar,
Noida-201301 U.P.)

VERSUS

Commissioner of CGST, Noida ....Respondent
(C-56/42, Sector-62, Noida U.P.-201309)

APPEARANCE:

Ms. Usmeet Kaur Monga, Advocate for the Appellant
Shri A. K. Choudhary, Authorized Representative for the Respondent

CORAM: HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.- 70278/2024

DATE OF HEARING : 28 May, 2024
DATE OF DECISION : 28 May, 2024

SANJIV SRIVASTAVA:

This appeal is directed against Order-in-Appeal No.NOI-EXCUS-001-APP-924-2020-21 dated 27.01.2021 passed by Commissioner (Appeals) CGST, Noida. By the impugned order Commissioner (Appeals) has held as follows:-

> *"13. As far as plea of the appellant that in the present case extended period clause and penal clause are not applicable is concerned, I observe that adjudicating authority in the impugned OIO has in detail discussed both the aforesaid issues and has rightly concluded that in the present case appellant had suppressed the facts and never informed the department regarding availing of Cenvat credit of service tax paid on the commission charges paid by them to said M/s Chopra Properties for purchase of land from NOIDA Authority with the sole & mala fide intent to avail*

inadmissible credit. Therefore, I find no reason to interfere in the findings of adjudicating authority in this regard."

2.1 The Appellant is engaged in manufacture of a rear view mirror and were also availing Cenvat credit on various inputs, capital goods, input services in terms of Cenvat Credit Rules, 2004.

2.2 During the course of audit it was observed that the Appellant had taken credit on service tax paid on commission charges paid to M/s Chopra Properties for purchase of land from Noida Authority for setting up a new manufacturing unit.

2.3 As Revenue was of the opinion that this credit is not admissible, a show cause notice dated 11.02.2016 was issued to the Appellant asking them to show cause as to why:-

> ***"a.*** *The said Credit of Rs.6,79,800/- (Service Tax+Ed. Cess+ HS. Ed. Cess) (Rupees Six Lakhs Seventy Nine Thousand Eight Hundred only) should not be disallowed and recovered from them under Rule 14 of the CENVAT Credit Rules, 2004 read with Section 11A(4) of the Central Excise Act, 2004.*
>
> ***b.*** *Interest at appropriate rates on the said amount should not be charged and recovered from them under Rule 14 of the CENVAT Credit Rules, 2004 read with Section 11AA of the Central Excise Act, 1944.*
>
> ***c.*** *Penalty under Rule 15 of the CENVAT Credit Rules, 2004 read with Section 11AC of the Central Excise Act, 1944 should not be imposed on them for contravention of the aforementioned provision of law."*

2.4 This show cause notice has been adjudicated as per Order-in-Original No.01/AC/NOIDA/-VI/2019-20 dated 24.01.2020 holding as follows:-

ORDER

i. *I disallow the wrongly availed CENVAT Credit of Rs.6,79,800/- (Service Tax+Ed. Cess+ HS. Ed. Cess) (Rupees Six Lakhs Seventy Nine Thousand Eight Hundred only) and order to recovery of the same under Rule 14 of CENVAT Credit Rules, 2004 read* *with Section 11A(4) of Central Excise Act, 1944 from the party.*

ii. *I confirm the demand of interest as applicable rate in terms of Rule 14 of CENVAT Credit Rules, 2004 read with 11AA of Central Excise Act, 1944.*

iii. *I also impose an equal penalty under Rule 15 of CENVAT Credit Rules, 2004 read with Section 11AC of Central Excise Act, 1944 for contravention of various provisions of Central Excise Act, 1944 and Central Excise Rules, made there under and discussed supra.*

The dues so adjudged to be paid forthwith.

2.5 Aggrieved Appellant filed appeal before learned Commissioner (Appeals) which has been dismissed as per the impugned order. Hence this appeal.

3.1 I have heard Ms. Usmeet Kaur Monga, Advocate appearing on behalf of the Appellant and Shri A. K. Choudhary, Authorized Representative for the Revenue.

3.2 Arguing for the Appellant learned counsel submits that:

➢ the issue to be determined in the present case are,-
  - Whether the department can invoke extended period of limitation on ground of suppression of fact even though all the required information was timely provided by the appellant?
  - Can Cenvat credit for input services be denied under Rule 2(l) which are taken in relation to manufacturing & clearance of final products?

➢ appellant had taken Cenvat credit sought to be denied against Invoice No.CP/2013-14/03 dated 31.03.2014 duly reflected the same in their ER-1 return filed for the month of March, 2014.

➢ audit was conducted by officers of AGUP, Lucknow on 30.03.2015 to 01.04.2015 and it was alleged that this Cenvat credit was not admissible to them.

➢ Show cause notice dated 11.02.2016 was issued to them on the basis of objection pointed out by invoking extended period of limitation under Section 11A(4) of the Central

Excise Act, 1944 stating that Appellant had willfully suppressed the facts.

- ➢Extended period of limitation under Section 11A(4) of Central Excise Act cannot be invoked in the present case as
  - ○ Appellant had completely disclosed the entire facts in their ER-1 Return as per the format provided.
  - ○ all information was available on record and the show cause notice and confirmation of demand thereafter is based on information provided by them.
- ➢Demand could not be upheld which is made by invoking the extended period of limitation. Reliance is placed on the decisions of
  - ○ Surya Vistacom Pvt. Ltd. [2022 (66) G.S.T.L. 290 (Cal.)].
  - ○ Meghmani Dyes & Intermediates Ltd. [2013 (288) E.L.T. 514 (Guj)].
  - ○ LG Electronics India Pvt. Ltd. [2024 (4) TMI 533].
  - ○ BCH Electric Ltd. [2013 (31) S.T.R.68 (Tri.-Del.)].
  - ○ Apex Electricals Pvt. Ltd. [1992 (61) E.L.T. 413 (Guj.)].
  - ○ Cadila Pharmaceutical Ltd. [2017 (349) E.L.T. 694 (Guj.)].
  - ○ Prolite Engineering Co. [1995 (75) E.L.T. 257 (Guj.)].
- ➢As there is no positive act on the part of the Appellant to suppress any information extended period could not have been held in following cases:-
  - ○ PVR Ltd. [2021 (55) G.S.T.L. 435 (Tri.-Del.)].
  - ○ Anand Nishikawa Co. Ltd. [2005 (188) E.L.T. 149 (S.C.)].
  - ○ Ajay Mishra 2023 (386) E.L.T. 310 (Tri.-Del.).
  - ○ Continental Foundation JT. Venture [2007 (216) E.L.T. 177 (S.C.)].
  - ○ Arya Logistics [2024 (80) G.S.T.L. 108 (Tri.-Ahmd.)].

➢The services provided by the Chopra Properties has been used in relation to manufacture of goods hence qualifies as input service Rule 2(l) of Cenvat Credit Rules. Reliance is placed on the decision in case:-

- Mercedes Benz Research and Development India Pvt. Ltd. [2021 (3) TMI 420 – CESTAT Bangalore].
- Citicorp Services India Pvt. Ltd., [2019 (5) TMI 380 – CESTAT Mumbai].
- Group M Media Pvt. Ltd., [2013 (3) TMI 19 – CESTAT Mumbai].

➢this service was received in relation to modernization of the Appellant's unit which is covered by the definition of input services as per Rule 2 (l). Reliance is placed on the decision in Manaksia Coated Metals & Industries Ltd., [2013 (12) G.S.T.L. 90 (Tri.-Ahmd.)].

3.3 Learned Authorized Representative reiterates the findings recorded in the impugned order.

4.1 I have considered the impugned order alongwith the submissions made in the appeal and during the course of arguments.

4.2 The relevant extract of the ER-1 Return filed by the Appellant for the period March, 2014 is reproduced below:-

5. DETAILS OF CENVAT CREDIT TAKEN AND UTILIZED										
Details of Credit	**CENVAT**	**AED_TTA**	**NCCD**	**ADE_LVD_CL_85**	**ADC_LVD_CT_75**	**EDU_CESS**	**SEC_EDU_CESS**	**SER-VICE_TAX**	**EDU_CESS_ST**	**SEC_EDU_CESS_ST**
Opening Balance (Rs.)	763584	0	0	0	0	52582	26214	0	0	0
Credit Taken on inputs on invoices issued by manufacturers(Rs.)	4539725	0	0	0	0	90750	45396	0	0	0
Credit Taken on inputs on invoices issued by I or II stage dealers (RS.)	0	0	0	0	0	0	0	0	0	0
Credit Taken on inputs on imported inputs (Rs.)	1731621	0	0	0	0	0	0	0	0	0
Credit Taken on Capital Goods on Invoices issued by Manufacturers or By I Or II Stage Dealers (Rs.)	7901	0	0	0	0	160	81	0	0	0
Credit Taken on imported capital goods (Rs.)	0	0	0	0	0	0	0	0	0	0
Credit Taken on input services (Rs.)	0	0	0	0	0	0	0	**2583389**	**51670**	**25843**
Credit Taken From Inter-Unit Transfer of Credit Under Rule 10A of CENVAT Credit Rules, 2004	0	0	0	2700000	0	0	0	0	0	0
Total Credit Available (Rs.)	7042831	0	0	2700000	0	143492	71691	2583389	51670	25843

4.3 Details of credit taken in respect of input services during the period includes the Cenvat credit taken in respect of deposit as is evident from the chart available on the page 83-85 of the appeal paper book. Relevant extract is reproduced as follows:-

DETAILS OF SERVICE TAX CREDIT TAKEN FOR THE MONTH MAR-2014								
Date	Description	Su code	Particulars	Bill No.	Bill Date	Service Tax	Ed Cess	Sec Cess
28-02-14	AP140228116309	D063	DHL Express (I) Pvt. Ltd.	DEL781146	21-02-14	7,515	150	75
X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X
31-03-14	AP140331117783	C204	Chopra properties	Other services	31-03-14	660,000	13,200	6,600
x	x	x	x	x	x	x	x	X
x	x	x	x		x	x	x	X
					Total	**25,83,389**	**51,670**	**25,843**

4.4 From the above it is evident that credit of Rs.6,79,800 (Service Tax Rs.6,60,000+ Edu Cess Rs.13,200/- + SHE Cess Rs.6,600/-) is included in the amount of Rs.26,60,902/- (Service Tax Rs.25,83,389/-+ Edu Cess Rs.51,670/- + SHE Cess Rs.25,843/-) declared as input services credit in the ER-1 return filed by the Appellant.

4.5 Appellant have made the declaration in respect of this credit in their ER-1 Return and nothing was suppressed by the Appellant in this regard. It was for the Revenue Authorities to have raised the dispute within the period of limitation as prescribed under law if the credit was irregular and was sought to be denied. In the case of Surya Vistacom Pvt. Ltd. referred above Tribunal has held as follows:-

> ***"11.****We have perused the show cause notice issued by the adjudicating authority and we found that there is no specific allegation against the assessee of any deliberate suppression or misstatement with an intent to evade taxes. At this juncture, it will be beneficial to take note of the decision of the Hon'ble Supreme Court in Uniworth Textiles Ltd. v. Commissioner of Central Excise, Raipur [2013 (288) ELT 161 (SC)] wherein the Hon'ble Supreme Court held that every non-payment/non-levy of duty does not attract extended period and there must be deliberate default. Further, it was held that the conclusion that mere non-payment of duties is not equivalent to collusion or wilful misstatement or suppression of fact is untenable as*

the Act contemplates a positive action which betrays a negative intent of wilful default. Further, in Pushpam Pharmaceuticals Co. v. CCE [1995 (75) ELT 721 (SC)] it was held that misstatement or suppression of fact must be wilful since the word 'wilful' precedes the words 'misstatement or suppression of fact' which means with an intent to evade duty. Bearing in mind the above legal principle, if we examine the allegations in the show cause notice dated 17th October, 2016, we find that there is no specific allegation or prima facie finding of any wilful misstatement or suppression on the part of the assessee. That apart, the details have been culled out by the adjudicating authority from the available records and there is no new or fresh tangible materials available in the hands of the adjudicating authority to make out a case of wilful misstatement or wilful suppression. Therefore, the Tribunal was fully justified in holding that the extended period of limitation could not have been invoked."

4.6 In case of Meghmani Dyes & Intermediates Ltd.(supra) has held as follows:-

"37. *The judgment of the Supreme Court in the case of Chemphar Drugs and Liniments (supra) relied upon by learned advocate Mr. Ravani will not help the Revenue in any manner. In Chemphar Drugs and Liniments (supra), the Apex Court has held that extended period of five years was applicable only when something positive other than any inaction or failure on the part of the manufacturer or conscious or deliberate withholding of information when the manufacturer knew otherwise, is established. When the department had full knowledge about the facts and the manufacturers' action or inaction is based on their belief that they were required or not required to carry out such action or inaction, the period beyond six months (now one year) could not be made applicable. In the present case, it is not the case of the department that information that was otherwise required to be supplied to the department was knowingly suppressed or concealed from the department, nor is it the case of the department that information which was supplied by the assessees was in any manner incorrect or inaccurate. We cannot ignore or overlook the clear and unambiguous findings arrived at by the CESTAT with regard to the issue of limitation. The CESTAT, upon perusal of record i.e. the Returns, Declarations, etc., has concluded that no evidence had* *been brought on record to show that the Returns/Documents/Declarations filed by the assessees were incomplete or that the facts declared therein were either suppressed or misdeclared in any manner. In view of the clear findings of fact recorded by the CESTAT in the present case, we find no reason to interfere with the impugned order under challenge.*

38. *In the case of Coaltar Chemicals Manufacturing Co. (supra) which has been relied upon by the Revenue, the Supreme Court, considered the judgment in the case of M/s. Chemphar Drugs and Liniments (supra). The contention before the Supreme Court on behalf of the assessee, relying on M/s. Chemphar Drugs and Liniments (supra), was that when the manufacturer in the same situation as appellant has revealed certain information in another proceeding and that information is available to the Department, the enlarged period of limitation available under Section 11A of the Central Excise Act cannot be invoked by the Department. Dismissing the appeal of the assessee, the Supreme Court in paragraph 2 clarified as under :*

> *"..On the other hand, in a given case whether there is something positive other than mere inaction or failure on the part of the manufacturer or producer or conscious or deliberate withholding of information when the manufacturer knew otherwise, is required before it is saddled with any liability, is a question of fact to be established in each case."*

39. *In the case of Commissioner of Central Excise, Aurangabad (supra), the Supreme Court once again considered Section 11A and held in paragraph 12 as under:*

> *"Section 11A of the Act empowers the central excise officer to initiate proceedings where duty has not been levied or short-levied within six months from the relevant date. But the proviso to Section 11A(1), provides an extended period of limitation provided the duty is not levied or paid or which has been short-levied or short-paid or erroneously refunded, if there is fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of*

> *the provisions of this Act or of the rules made thereunder with intent to evade payment of duty. The extended period so provided is of five years instead of six months. Since the proviso extends the period of limitation from six months to five years, it needs to be construed strictly. The initial burden is on the department to prove that the situation visualized by the proviso existed. But the burden shifts on the assessee once the department is able to produce material to show that the appellant is guilty of any of those situations visualized in the Section."*

40. *We shall also look into the judgments which have been relied upon by Mr. Dave appearing for the assessees.*

41. *In the case of Jindal Aluminium Ltd. (supra), the Division Bench of Karnataka High Court, in paragraphs 9 and 11 of the judgment, held as under :*

> *"9. In respect of the second point it is submitted that the documents which was recovered from the transporter were in respect of the excisable goods on which the duty was clandestinely evade. Firstly, we may observe that the question as to whether there is evasion of duty is basically a question of fact. It is not the case of the revenue that the order passed by the Collector or the Tribunal is perverse. No question is framed on that point.*

11. After a finding of fact is recorded by the Tribunal after due consideration of the evidence before it, this Court will not interfere in its jurisdiction under Section 35G. The finding based on inferences drawn from the facts of the case is purely a question of fact. Even if the finding is recorded without any supporting evidence, it could be challenged on the ground of perversity. The finding cannot be said to be based on suspicion, conjecture or surmises. The finding on question of fact is open to attack as erroneous in law when there is no evidence to support. If the finding of fact is not challenged, it is binding even on the High Court. IN CIT v. Orissa Corpn. Pvt. Ltd., 1986 (159) ITR 78, it was held by the Apex Court that the conclusion of the Tribunal based on some evidence *on which the conclusion can be arrived at, no question of law would arise. In CIT v. Indian Woollen Textiles Mills, 1964 (54) ITR 291, it is held by the Apex Court that it is not open to the High Court to discard the Tribunal's finding on a question of fact, even if on a review to the evidence the Court may arrive at different conclusion."*

42. *In the case of Commissioner of Central Excise, Chennai-II (supra), the Madras High Court, in paragraph 4 of the judgment, held as under :*

> *"4. Under the hierarchy of quasi-judicial authorities, in the Central Excise Act, at the lowest is the Assistant Commissioner against whose orders appeals lie under Section 35 of the Central Excise Act to the Commissioner (Appeals) and, thereafter, a second appeal to the CEGAT under Section 35B. It may be noted that the second appeal to the CEGAT is not like a second appeal under Section 100 C.P.C., since it is not confined to questions of law. Second appeals under different statutes can have different meanings and different scope. A second appeal under Section 35B of the Central Excise Act is like a first appeal under Section 96 C.P.C. inasmuch as findings of fact can also be gone into and the CEGAT can re-appreciate or reassess the evidence. Thus the orders of the Assistant Commissioner and the Commissioner (Appeals) merge into the order of the CEGAT by the doctrine of merger, and the only order which now survives is the order of CEGAT. Hence the reference to the orders of the Assistant Commissioner and the Commissioner (Appeals) is wholly misconceived, as these orders no longer survive after the order of the CEGAT. The CEGAT has recorded a clear finding of fact that there is no suppression, and hence, obviously, the demand was time-barred since the larger period of limitation under the proviso to Section 11A is not applicable."*

43. *Thus, the principles of law discernible from the authoritative pronouncements referred to above are plain and clear. To make the demand for duty sustainable beyond the period of six months and upto a period of five* *years in view of the proviso to Section 11A of the Act, the Revenue is obliged to establish by cogent evidence that the duty of excise has not been levied or paid or short-levied or short-paid or erroneously refunded by reasons of either fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules made thereunder, with intent to evade payment of duty."*

4.7 In case of L.G. Electronics India Pvt. Ltd. this Bench has held as follows:-

"4.10 The show cause notice has been issued invoking the extended period of limitation alleging that the appellant had not produced the copy of agreement with the foreign service provider and the relevant documents to audit at the time of audit. Though these documents were in existence and were made available to revenue authorities even before the issuance of show cause notice. As all the information which was necessary to determine eligibility under Notification No.18/2009-ST was available with the Revenue and the prescribed Return/Form was filed by the appellant they could not have suppressed any fact from the Department for which extended period of limitation could have been invoked. Where merely a procedural violation in respect of complying with a condition of Notification cannot be said to be an act of suppression for invoking extended period of limitation. No justification for invoking extended period of limitation is forthcoming from the show cause notice, order in original or the impugned order.

4.11 When all the facts were in the knowledge of the Department, extended period could not have been invoked as has been held by the ***Anand Nishkawa Co Ltd. [2005 (188) E.L.T. 149 (S.C.)]***

*"**27.** Relying on the aforesaid observations of this Court in the case of Pushpam Pharmaceutical Co. v. Collector of Central Excise, Bombay [1995 Suppl. (3) SCC 462], we find that "suppression of facts" can have only one meaning that*

the correct information was not disclosed deliberately to evade payment of duty, when facts were known to both the parties, the omission by one to do what he might have done not that he must have done would not render it suppression. It is settled law that mere failure to declare does not amount to willful suppression. There must be some positive act from the side of the assessee to find willful suppression. Therefore, in view of our findings made herein above that there was no deliberate intention on the part of the appellant not to disclose the correct information or to evade payment of duty, it was not open to the Central Excise Officer to proceed to recover duties in the manner indicated in proviso to Section 11A of the Act. We are, therefore, of the firm opinion that where facts were known to both the parties, as in the instant case, it was not open to the CEGAT to come to a conclusion that the appellant was guilty of "suppression of facts". In Densons Pultretaknik v. Collector of Central Excise [2003 (11) SCC 390], this Court held that mere classification under a different sub-heading by the manufacturer cannot be said to be willful mis-statement or "suppression of facts". This view was also reiterated by this Court in Collector of Central Excise, Baroda v. LMP Precision Engg. Co. Ltd. [2004 (9) SCC 703]."

4.12 Hon'ble Supreme Court in the case of ***Continental Foundation Jt Venture [2007 (216) ELT 177 (SC)]*** *held as follows:*

"10. *The expression "suppression" has been used in the proviso to Section 11A of the Act accompanied by very strong words as 'fraud' or "collusion" and, therefore, has to be construed strictly. Mere omission to give correct information is not suppression of facts unless it was deliberate to stop the payment of duty. Suppression means failure to disclose full information with the intent to evade payment of duty. When the facts are known to both the parties, omission by one party to do what he might have done would not render it suppression. When the Revenue invokes the extended period of limitation under Section 11A the burden is cast upon it to prove suppression of fact. An incorrect statement cannot be equated with a willful misstatement. The latter implies making of an incorrect statement with the knowledge that the statement was not correct."*

4.13 Further in case of ***Accurate Chemical Industries [2014 (310) ELT 441 (ALL)]*** *Hon'ble Allahabad High Court has held as follows:*

"5. *Admittedly, a show cause notice was issued on 16 August 2007 beyond the prescribed period of one year but the Revenue sought to invoke the extended period of limitation under the proviso to Section 11A(1) of the Act. The Tribunal observed that during the period in question, the assessee had not sold any part of its products to independent buyers and the entire stock was transferred to M/s. Accurate Transformers Limited. Consequently, these clearances were liable to be treated as being made to a related person for its captive use and under Rule 9 read with Rule 8 of the Central Excise Valuation Rules, 2000, the duty was payable on 110%/115% of the cost of production, whereas it was paid on a lower value. On the invocation of the extended period of limitation, the Tribunal held that the assessee had duly filed ER-1 returns on a monthly basis. Under the circulars of the Central Board of Excise and Customs, the Range Officer was required to carry out a detailed scrutiny of the ER-1 returns and if this had been done, the short payment would have been detected. There was no evidence of any collusion between the assessee and the jurisdictional Central Excise Officers. The short payment was detected when an audit team visited the premises and examined the records but this, as the Tribunal held, could have been detected even by the jurisdictional Range Officer much earlier. In the circumstances, it was held that there was no suppression of fact or wilful misstatement on the part of the assessee and no ground was, therefore, available for invoking the extended period of limitation. In addition, the Tribunal observed that in the present case, the situation was revenue neutral since, in the facts of the case, the entire duty paid by the assessee in respect of the clearances of MS tanks and radiators to its transformer unit was available to the transformer unit as Cenvat credit. In other words, the Cenvat credit was available not to a third party buyer of the assessee's manufactured goods but to the assessee itself in its transformer unit. Since the situation was revenue neutral, this was an additional ground which weighed with the Tribunal to hold that the extended period could not be invoked.*

6. *Having considered the judgment of the Tribunal, we see no reason to interfere with the finding of fact that if a scrutiny had been made by the Range Officer of the ER-1 returns, that would have revealed that the assessee had cleared its MS tanks and radiators to the owning company for the manufacture of transformers. This indicated that there was no fraud, collusion, misstatement or suppression of facts. Besides, since the situation was revenue neutral, no intent to evade the payment of duty could be ascribed to the assessee. Once, there was no intent to evade the payment of duty, the Tribunal was justified in coming to the* *conclusion that the extended period of limitation under the proviso to Section 11A(1) of the Act, would not be attracted……"*

4.14 As we do not find demand to be sustainable on the ground of limitation, we are not discussing the issue on merits."

4.8 As the demand has been made invoking extended period of limitation and I do not find that the same is available to Revenue for making this demand. The impugned order cannot be sustained on this ground itself. As the demand is barred by limitation, I am not discussing the question of admissibility of credits on merits.

5.1 Appeal allowed.

(Dictated and pronounced in open court)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

LKS