CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No. 70174 & 70175 of 2017-[DB]

[In Service Tax Appeal No.70174 of 2017]
(Arising out of Order-in-Original No. 62-63/Comm/Hapur/2016-17 dated 29/11/2016 passed by Commissioner of Customs, Central Excise & Service Tax, Meerut)

M/s Bajaj Infrastructure Development Company Limited.

.....Appellant

(Barkhera Kalan, Pilibhit)

VERSUS

Commissioner of Customs, Central Excise &

Service Tax, Meerut **....Respondent**

(Opposite Shaheed Smarak, Meerut)

WITH
[In Service Tax Appeal No.70175 of 2017]
(Arising out of Order-in-Original No. 62-63/Comm/Hapur/2016-17 dated 29/11/2016 passed by Commissioner of Customs, Central Excise & Service Tax, Meerut)

M/s Bajaj Infrastructure Development Company Limited.

.....Appellant

(Barkhera Kalan, Pilibhit)

VERSUS

Commissioner of Customs, Central Excise &

Service Tax, Meerut **....Respondent**

(Opposite Shaheed Smarak, Meerut)

APPEARANCE:

Shri Piyush Kumar & Shri Jitendra Singh, Advocates &
Shri M.K. Kaushik, for the Appellant
Shri Shiv Pratap Singh, Deputy Commissioner Authorised Representative for the Respondent

CORAM:

HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NOs. 71119-71120 / 2019

Date of Hearing : 23/05/2019
Date of Decision : 23/05/2019

PER: ANIL G. SHAKKARWAR

Above stated two appeals are taken together for decision since both of them are arising out of common impugned Order-in-Original No. 62-63/Comm/Hapur/2016-17 dated 29/11/2016 passed by Commissioner of Customs, Central Excise & Service Tax, Meerut. Through the said Order-in-Original two show cause notices both dated 16.04.2016 were decided. One show cause notice was for demand of service tax of around Rs.12 crores and the other show cause notice was issued for the period from 2010-11 to 30 June, 2012 for denial of Cenvat credit of around Rs.3.14 crores. Out of the demand of Rs.12 crores demand of Rs.6.94 crores was confirmed through impugned order and out of the proposal of denial of Cenvat credit of Rs.3.14 crores through the impugned order Cenvat credit of around Rs.1.07 crores was denied.

2. After hearing both the sides duly represented by Shri Piyush Kumar along with Shri Jitendra Singh learned advocates on behalf of the appellant and Shri Sandeep Kumar Singh learned Deputy Commissioner on behalf of the respondent, we note that the proceedings in the present appeals are covered by the same agreement entered into between appellant and M/s Bajaj Hindustan Ltd. (which was letter on assigned to M/s Bajaj Energy Pvt. Ltd.). On 28.12.2009 the said two parties entered into an agreement for setting up of 5 Thermal power plants of 90 Mega Watt each situated at 5 different locations including four

locations which were associated with 4 appeals, which were decided through Final Order No.70959-70962/2019 dated 16.05.2019 the fifth locations were covered by the present appeals.

3. Both sides are agree that the said Final order dated 16.05.2009 is squarely applicable in the present case, since the activity in the present case was covered by the same agreement dated 28.12.2009 and also that the show cause notice in the present case is hit by bar of limitation. Since the period involved in the present proceedings is from the financial year 2010-11 to financial year 2012-13 and show cause notice was issued on 16.04.2015 by invocation of extended period and it is undisputed fact that during the relevant period appellants had filed ST-3 returns in the normal course of business and paid service tax in the normal course of business.

4. We, therefore, applying the ratio of Final order of this Tribunal bearing number 70959-70962/2019 dated 16.05.2019 set aside the impugned orders and allow the appeals. The appellant shall be entitled to consequential relief, as per law.

(Dictated and pronounced in open court)

(Archana Wadhwa)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)

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