IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. ST/70180/2015-ST[SM]

(Arising out of Order-in-Appeal No. MRT/EXCUS/000/49/APPL-I/2014-15 dated 30/04/2015 passed by Commissioner of Central Excise & Customs (Appeals), Meerut)

Commissioner, Central Excise, Meerut **Appellant**

Vs.

Bharat Sanchar Nigam Ltd. **Respondent**

Appearance:

Shri Mohd Altaf (Asstt. Commr.) AR for Appellant
Absent for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Date of Hearing : 13/09/2018
Date of Decision : 13/09/2018

FINAL ORDER NO **72287 / 2018**

Per: Archana Wadhwa

Being aggrieved with the impugned order of the Commissioner (Appeals) vide which he has restricted the demand within the normal period of limitation and set aside the penalty imposed upon the respondent, Revenue has filed the present appeal. I have heard Shri Mohd Altaf (Asstt. Commr.) AR for the Revenue and Nobody appeared for the respondent.

2. I find that the issue pertains to the availment of Cenvat Credit on the basis of Advice of Transfer Debit (ATD) issued

by the respondent's Head Office. The Appellate Authority has observed that identical show cause notices were being issued to the same respondent for the earlier period and as such longer period would not be available. Further as the respondent is a public sector undertaking no suppression can be attributed and hence no mala fide and no penalty.

3. I find that the said issue of availability of Cenvat Credit stands decided in favour of the assessee by various decisions of the Tribunal in their own case. One such reference can be made to the Tribunal's decision in the case of Bharat Sanchar Nigam Ltd. vs. Commissioner of C. EX., Salem reported at 2014 (34) STR 378 (Tri. Chennai).

4. I also find that the assessee being a public sector undertaking as also on account of fact that they were issued earlier show cause notices on the same disputed issue of availment of Cenvat Credit, the Commissioner (Appeals) has rightly held in favour of the assessee on the point of limitation and penalty. As such I find no merit in the Revenue's case. Their appeal is accordingly, rejected.

(Dictated and pronounced in Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Ankit