

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

APPEAL No. E/70149/2016-EX[DB]

(Arising out of Order-in-Original No.7-8/COMM/GZB/2015-16 dated 17/08/2015 passed by Commissioner of Customs, Central Excise & Service Tax, Ghaziabad)

M/s Bhushan Steel Ltd.

Appellant

Vs.

Commissioner of Central Excise, Ghaziabad

Respondent

Appearance:

Shri Rajesh Chhibber (Advocate)
Shri Mohd. Altaf (Asstt. Commr.) AR

for Appellant
for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 07/12/2018
Date of Decision : 07/12/2018

FINAL ORDER NO. – 72827/2018

Per: Anil G. Shakkarwar

After hearing both the sides duly represented by Shri Rajesh Chhibber learned advocate appearing for the appellant and Shri Mohd. Altaf learned A.R. appearing for the Revenue, we note that in the present appeal there are two issues involved. First issue is related to confirmation of demand on the hundi charges collected by the appellant from their customers. The view of Revenue is

that said charges should be included in the assessable value. By entertaining such a view said demand of around Rs.1.16 crores was confirmed. Learned counsel for the appellant has submitted that this Tribunal in the case of Collector of Central Excise vs. Shree Bhawani Cotton Mills & Industries Ltd. reported at 1989 (43) E.L.T. 762 (Tri.) has held that bank commission and hundi commission and interest payable to the bank in the account of the customers cannot be included in the assessable value. He has further submitted that in the case of Shri Bhawani Cotton Mills Industries Ltd. as reported at 1997 (92) E.L.T. A68 (S.C.), the said Final Order of this Tribunal has been affirmed by Hon'ble Supreme Court. The learned A.R. has agreed that the said ruling of Hon'ble Supreme Court is squarely applicable in the present case. We, therefore, hold that the demand alongwith interest and penalty amount around Rs.1.16 crores on hundi charges is not sustainable.

2. The second issue involved in the present appeal is admissibility of various services for Cenvat credit. Learned counsel for the appellant has submitted that in view of various decisions of the Tribunal and in view of the ruling of Hon'ble Allahabad High Court and Hon'ble

Rajasthan High Court the following input services are admissible for availment of Cenvat credit.

| Nature of Input Service | Case Law | As held in the order |
|---|-------------------------------|---------------------------------------|
| Air Ticketing/Hotel Booking Travelling Expenses of Professionals | Goodluck Steel | 2013 (32) S.T.R. 123 (Tri.-Del.) |
| CHA/Port Charges | Castrol India | 2013 (291) E.L.T. 469 (Tri.Ahmd.) |
| Rail Transport | L G Polymer India P. Ltd. | 2017 (5) G.S.T.L. 89 (Tri.-Hyd.) |
| Photocopier Charges | CCE vs. Lupin Ltd. | 2012(285) E.L.T. 221 (Tri.-Mum.) |
| Subscription/Periodicals/ Membership fee | Integra Software | 2017 (48) S.T.R. 13 (Tri.-Chennai) |
| | Pan Pharma & Allied Machinery | 2016 (42) S.T.R. 757 (Tri.-Mum.) |
| ISO Audit | CCE vs. HCL Technologies | 2016 (37) S.T.R. 716 (All.) |
| Renting of Immovable Property (I.E.DEPOT) | Integra Software | 2017 (48) S.T.R. 13 (Tri.-Chennai) |
| House Keeping | Lupin Ltd. | 2012 (285) E.L.T. 221 (Tri.-Mum.) |
| | Balakrishna Ind. | 2010 (254) E.L.T. 310 (Tri.-Mum.) |
| Steel Items for Repairing | UOI vs. Hindustan Zinc | 2007 (214) E.L.T. 510 (Raj.) |
| | Upheld by SC as reported in | 2007 (214) E.L.T.-a115 (SC) |

Learned counsel for the appellant has not contested the decision of inadmissibility of Cenvat credit in respect of vehicle repairs & maintenance and Internet charges on the ground that the amount being small and having been already deposited. After considering the submission from both the sides, we note that above stated services are eligible for admissibility of Cenvat credit in view of various decisions as stated in the above chart. We,

therefore, set aside the confirmation of demand of Rs.2.78 crores except in respect of Cenvat credit denied in respect of vehicle repair & maintenance and Internet charges. Further, we set aside the entire penalty imposed on the appellant.

4. In above terms the appeal is partially allowed.

(Dictated & Pronounced in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Lks