

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

APPEAL No.E/1131/2011-EX[DB]

(Arising out of Order-in-Original No.01/Commr./Meerut-I/2011 dated 28/01/2011 passed by Commissioner, Customs & Central Excise, Meerut-I)

M/s Vodafone Mobile Services Ltd. ...Appellants

Vs.

Commissioner, Customs & Central Excise, Meerut ...Respondents

Appearance:

Shri B.L. Narasimhan (Adv.) & Shri Ayush Agarwal (Adv.) for Appellant
Shri Pradeep Kumar Dubey, Superintendent (AR), for Respondent

CORAM:

Hon'ble Mr. Ashok Jindal, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing/ Decision : 26/12/2018

FINAL ORDER NO. **72922 / 2018**

Per: Ashok Jindal

Cenvat credit of Rs.18,02,521/- has been denied for the discrepancies as mentioned here in under:-

<u>Reason for Denial of Credit</u>	<u>Amount of Credit</u>
No Registration No./SI. No. mentioned in the Invoice	INR.4,53,799/-
Invoice not in the name of the Registered Premises of the Service	INR.4,20,521/-

Recipient (Appellant)	
Appellant's Name missing on the Invoice	INR.1,70,367/-
Photocopies Invoices	INR.7,57,849/-
Total	INR.18,02,521/-

2. Heard the parties.

3. (i) We find that cenvat credit of Rs.4,53,799/- has been denied on the ground that service provider has not mentioned Service Tax Registration Number in the invoice but later on the service provider has obtained Service Tax Registration from the Department and the same has been provided by the appellant, in that circumstances, cenvat credit to the tune of Rs.4,53,799/- cannot be denied to the appellants, therefore, it is held that said cenvat credit is available to the appellants.

(ii) Cenvat credit of Rs.4,20,521/- has been denied on the ground that invoice is not having the address of the registered premises of the appellants. We find that in this case the various branches of appellant has taken services from the service provider who issued invoices in the name of various branches of the appellants, therefore,

the invoices are not having the address of the appellant, which cannot be the reason to deny cenvat credit to the appellants. In fact these branches has availed the services and paid the service tax, therefore, in that circumstances appellant is entitled to avail cenvat credit on the services availed at the branches to the tune of Rs.4,20,521/-.

(iii) Further, cenvat credit to the tune of Rs.1,70,365 has been denied to the appellants on the ground that appellant's name is missing on the invoice. In fact initially, the appellant was working under the name & Style of M/s Hutchison Essar South Ltd.. Later on, it was changed to M/s Vodafone Essar South Ltd. but this cannot be the reason to deny cenvat credit as it is not disputed that the appellants themselves have not received the services and not paid service tax thereon. Therefore, we allow cenvat credit of Rs.1,70,367/- to the appellants.

4. Cenvat Credit to the tune of Rs.7,57,849/- has been denied to the appellants on the ground that cenvat credit on the photocopies of the invoices is not available to the appellants. During the course of hearing, we have examined such invoices and one of the invoice is also

taken on record and same is reproduced below:-

Mahesh Kr. Goel & Sons
New Shiv Puri Khurja
INVOICE

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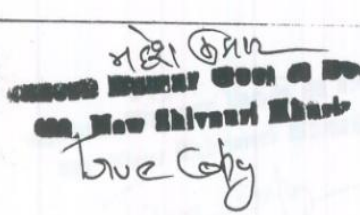
Service Tax Registration No. AAHHM8453LST001
PAN No:AAHHM8453LST001
Nature of Service: Business Auxiliary Service
June.06

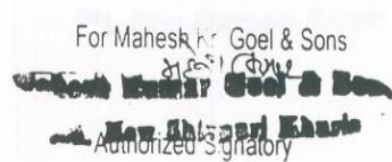
Invoice No.: 59
Invoice Date:04/05/2011
Period: 18 april.06 to 30

To,

Hutchison Essar South Ltd.
493, Mangal Pandey Nagar
University Road
Meerut

S.No.	Particular	Number	Rate	Amount
1.	Upfront commission on Prepaid Cards/Coupons and e-Topup for the month of 18-30 April-06			166725.00
2.	Upfront commission on Prepaid Cards/Coupons and e-Topup for the month of May-06			268692.00
3.	Upfront Commission on Prepaid Cards/Coupons and eTopup for The Month of June-06			359439.00
Total (-)				794856.00
Service tax @ 12%				95383.00
Educational Cess 2% on above				1908.00
Total (B)				97291.00
Grand Total (A+B)				264016.00
Less:				794856.00
1. Received above upfront commission on Prepaid cards/Coupons and eTup for 18 April-06 to 30 June-06.				
Balance				97291.00


 Mahesh Kr. Goel & Sons
 New Shiv Puri Khurja
 True Copy

For Mahesh Kr. Goel & Sons

 Authorized Signatory

Stamp

5. On going through the invoice, we find that the period for providing services is 18-30 April, 2006, wherein the invoice has been issued on 04.05.2011 and cenvat credit has also been taken in 2006 itself which creates doubt on the date of issuance of the invoices. Therefore, in the facts and circumstances of the case, the photocopies of the said invoices are not eligible document to avail cenvat credit to the appellants. In view of this, we deny the cenvat credit on the photocopies of the invoices to the tune of Rs.7,57,849/-.

6. In view of the above following order is passed.

7. The appellant is not entitled to avail Cenvat Credit of Rs.7,57,849/- the same shall be payable by the appellant along with interest and the penalty of Rs.50,000/- is also imposed.

8. With these terms appeal is disposed of.

(Pronounced & Dictated in Court)

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

Sd/-
(Ashok Jindal)
Member (Judicial)