FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 19/09/2017

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/71083/2017-SM[BR] dated 15/09/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	ST/70023/2015	**Bharat Sanchar Nigam Limited** O/o Gmtd-meerut,gpo, Mall Road MEERUT UP
		Name and Address of Respondent
2		C.C.E. & S.T.-Meerut-i EXCISE CHOWK...UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, UTTAR PRADESH-250005

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Copy To

3 Advocate(s) / Consultant(s):

B K Singh Raghuvanshi
1481/3, Kidwai Nagar,
Allahapur, Near Labour
Chouraha, Allahabad

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise, I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
Old Red Building, 38 M.G. Marg, Civil Lines, Allahabad – 211 001

COURT NO. II

DATE OF HEARING/DECISION : 15/09/2017.

Service Tax Appeal No. 70023 of 2015 (SM)

[Arising out of the Order-in-Appeal No. MRT/EXCUS/000/49/APPL-I/2015-16 dated 30/04/2015 passed by The Commissioner (Appeals), Central Excise, Meerut.]

M/s Bharat Sanchan Nigam Limited — Appellant

Versus

CCE & ST, Meerut – I — Respondent

Appearance

Shri B.K. Singh Raghuwanshi, Advocate – for the Appellant.

Shri Mohd. Altaf, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri Ashok Jindal, Member (Judicial)**

Final Order No. 71083 /2017 Dated : 15/09/2017

Per. Ashok Jindal :-

The appellant is in appeal against the impugned order wherein demand of service tax with interest was confirmed and penalty was imposed under Section 76 of the Finance Act. 1994.

2. The brief facts of the case are that the appellant has taken Cenvat credit on the basis of advice of transfer debit issued by the Central Telephone Store Department of the appellant supported by Xerox copies of the original invoices.

Ashok Jindal

3. Heard the learned Counsel for the appellant. Considering the fact that in appellant's own case by earlier order in final order No. 70874-70875/2016 dated 08/03/2016, this Tribunal has allowed Cenvat credit by observing as under :-

> "3. Heard the parties. I find that the issue is no more res-integra. Under the similar facts and circumstances of the case, the issue has been decided by the Single Member Bench of this Tribunal in the case of M/s B. S. N. L. Vs. CCE : 2014 (34) STR 378 (Tri.-Chennai), wherein it was held as under :
>
>> 6. Considered submissions on both sides. It is true that assessee has not complied with provisions of CCR, 2004 read with Central Excise Rules, 2002 strictly. However, I find that existence of original invoice and its genuineness is not disputed by Revenue. In fact, such documents were produced before lower authorities. Therefore, the duty involved has been paid and there is no dispute that the equipment in question has been used at the sites where credits were taken. In such circumstances, considering the commercial practice which was necessary for efficient procuring the equipment in question, this procedural lapse cannot be considered as a reason to deny Cenvat credit involved. Therefore, following the precedent decisions of the Tribunal I allow Cenvat credit and consequently there is no question of imposing any penalty. Therefore the appeal filed by the assessee is allowed and the appeals filed by Revenue are rejected. All the appeals are disposed of accordingly."

4. Therefore, I hold that appellant has correctly availed the Cenvat credit. In these circumstances, there is no merit in the impugned order. The same is set aside. In result, the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

PK Member(Judicial)

प्रमाणित प्रति/Certified True Copy
03/10/17
सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001