CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 921 of 2010

(Arising out of Order-in-Original No. 03/2010 dt. 17/02/2010 passed by Commissioner Of Central Excise, Bangalore-I)

Commissioner of Service Tax, .,
16/1, SP Complex, Lalbagh Road,
Bangalore – 560 027.
Appellant(s)

VERSUS

Bharati Airtel Limited
No.55, Divyashree Towers,
Bannerughatta Main Road,
Bangalore 560029.
Respondent(s)

APPEARANCE:

Mr. K.A. Jathin, Dy. Commissioner(AR) for the appellant.
Ms. Neethu James, Advocate for the respondent.

CORAM:
HON'BLE Dr. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE Mr. PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

Final Order No. 20904 / 2023

Date of Hearing: 31/08/2023
Date of Decision: 31/08/2023

Per : DR. D.M.MISRA

This is an appeal filed by the Revenue against the Order-in-Original No.03/2010 dt. 17/02/2010 passed by the Commissioner of Central Excise, Bangalore.

2. Heard both sides and perused the records.

3. Briefly, the issue relates to availment of cenvat credit on angles, channels, beams etc. used in erection of transmission towers. Learned AR for the Revenue fairly submits that against the same Order-in-Original, the assessee also has filed an appeal before this Tribunal and the same was disposed of by order No.20098/2021 dt. 06/04/2021. It is his contention that in the said order, the issue on merit was decided in favour of the Revenue whereas on limitation, appeal was allowed in favour of the assessee. Against the said order, both the Revenue as well as assessee preferred appeals before the Hon'ble High Court of Karnataka bearing appeal No.CEA/50/2021 and CEA/4/2022 and both the appeals are pending before the High Court.

4. Learned advocate for the respondent submits that in view of the judgment of this Tribunal on the same issues and Revenue's appeal against the same impugned order becomes academic and infructuous.

5. We find force in the contention of the learned advocate for the respondent. The issue of admissibility of cenvat credit on angles, channels, beams etc. used in the transmission towers was decided in favour of the Revenue on merit and on limitation, in

favour of the assessee. In the result, Revenue's appeal becomes infructuous and academic. Consequently, the same is disposed of. Appeal is disposed.

(Dictated and pronounced in open court)

(Dr. D.M. MISRA)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

Raja...