IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT –III

Excise Appeal No.E/1523-1524/2012 [SM]

[Arising out of Order-in-Original No. Commissioner/ RPR/ ST/ 16/ 2012 dated 29/02/2012 passed by the Commissioner of Customs, Central Excise and Service Tax, Raipur]

M/s. Steel Authority of India Ltd. …Appellant
M/s.Bhilai Steel Plant

Vs.

C.C.E., Raipur … Respondent

Present for the Appellant : Mr.Hemant Bajaj, Advocate
Present for the Respondent: Ms.Kanu Verma Kumar, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

Date of Hearing/Decision: 21/06/2017

FINAL ORDER NO. 54630-54631/2017

PER: S.K. MOHANTY

These appeals are directed against the impugned order dated 29.02.2012 passed by the Commissioner, Central Excise, Raipur.

2. Brief facts of the case are that M/s. Steel Authority of India Ltd. through its various manufacturing units, is interalia, engaged in the manufacture of iron and steel products. The units also availed cenvat credit of Central Excise Duty paid on the inputs and capital goods and service tax on the input services. The sales activities of the manufacturing units are monitored through the branch sales office located at different

places. In this case, the branch sales office located at Bhilai distributed some cenvat credit to the manufacturing unit i.e. Bhilai Steel Plant. The branch sales office at Bhilai is registered as a service provider under the category of goods transport agency and also registered as an input service distributor. During the period January, 2005 to September, 2009, the Department initiated show cause proceedings on both the appellants i.e. Bhilai Steel Plant and the branch sales office, Bhilai on the ground that the branch sales office (ISD) has not filed proper returns, showing the distribution of cenvat credit to Bhilai Steel Plant. Further, it has also been alleged that the GTA services were utilized by the appellants for transportation of goods beyond the place of removal. Further, cenvat credit taken on rent-a-cab service has also been denied on the ground that the said service has no nexus with the manufacture of final products. The matter was adjudicated vide the impugned order, wherein proposed demand on the GTA service for the period 01.01.2003 to 31.03.2006 was confirmed. Further, credit taken on rent-a-cab service for the period April 2008 to September, 2009 was also confirmed in the said order.

3. The ld. Advocate appearing for the appellant submits that payment of service tax on the GTA and rent-a-cab service, their utilization by the manufacturing unit were not disputed by the Department. Since the demands were confirmed on the ground that proper returns were not filed by the ISD (branch sales office), the same is not legally sustainable on the ground

that the ISD was duly registered with the Service Tax Department and has distributed the credit to the manufacturing unit on the basis of valid and proper documents. With regard to rent-a-cab service, the ld. Advocate submits that such services availed by the appellant has the nexus with the ultimate manufacturing activity of the appellant. To support the above stand, the ld Advocate has relied on the judgements of Hon'ble Karnataka High Court in the case of C.C.E., Bangalore -III vs. Stanzen Toyotetsu India (P) Ltd. – 2011 (23) S.T.R. 444 (Kar.) and also the decision of the Tribunal in the case of Demosha Chemicals Pvt. Ltd vs. C.C.E. & S.T., Daman - 2014 (34) S.T.R. 758 (Tri.-Ahmd.).

4. On the other hand, the ld. D.R. appearing for the Revenue – respondent reiterates the findings recorded in the impugned order.

5. Heard both sides and perused the records.

6. On perusal of the impugned order, I find that the Department has not disputed the fact regarding payment of service tax on the disputed services and their utilization by the appellant. Further, the fact is also not in dispute that the ISD was duly registered with the Service Tax Department for distributing the taxable services to the manufacturing unit for the purpose of availment of cenvat credit. Thus, cenvat credit cannot be denied on the ground that proper returns were not filed by the branch sales office. Non-filing of the return in the proper format is a procedural lapse, for which the substantive

right to distribute the credit and subsequent availment thereof by the manufacturing unit cannot be denied. With regard to rent-a-cab service, I find that the Hon'ble Karnataka High Court in the case of Stanzen Toyotetsu India (P) Ltd. (supra) held that such services availed for workers to reach factory premises in time, has the direct bearing on the manufacturing activity. Since the period involved in this case is prior to the amendment of the definition of input service, the credit taken on rent-a-cab service should also be available to the appellant.

7. In view of above, I do not find any merits in the impugned order. Accordingly, after setting aside the same, I allow the appeals in favour of the appellant.

[Dictated and pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita