CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 07.08.2017

Excise Appeal No. 56043 of 2014

(Arising out of order-in-original No. JAI-EXCUS-001-COM-47-14-15 dated 14.10.2014 passed by the Commissioner, Central Excise, Jaipur).

M/s ARL Infratech Limited Appellant

Vs.

CCE, Jaipur Respondent

Appearance:

Ms. Rinky Arora, Advocate for the appellant
Sh H. C. Saini, AR for the respondent

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order No. 55755 /2017

Per: **Justice (Dr.) Satish Chandra**:

The present appeal is filed against the order-in-original No. JAI-EXCUS-001-COM-47-14-15 dated 14.10.2014 passed by the Commissioner, Central Excise, Jaipur. The period of dispute is May 2010 to December 2012.

2. Brief facts of the case are that during the period under consideration, the appellant was engaged in the manufacture of asbestos cement sheets, pipes etc. falling under Chapter 68 & 70 of the Central Excise Tariff Act, 1985. The appellant has taken cenvat credit on outward transportation. The cost of transportation was included in the F.O.R. The cenvat credit was claimed on the

service tax was paid. But the same was not allowed by the department. Being aggrieved, the present appeal is filed by the appellant.

3. With this background, we heard Ms. Rinky Arora, ld. Advocate for the appellant and Sh. H. C. Saini, ld. AR for the Revenue.

4. After hearing both parties and on perusal of record, it appears that the identical issue has come up before the Tribunal in the case of ***Birla Corporation Ltd. vs. CCE, Jaipur-II*** vide Final order No. 51923 / 2017 where the ratio laid down in the case of ***Madras Cements Ltd. vs. Additional Commr. Bangalore – 2015 (40) STR 645 (Kar.)*** was followed. Finally, the Tribunal observed that-

> "6. *In the light of the decision of the* **Madras Cements Ltd.** *(supra) we hold that as goods have been supplied by the appellant on FOR basis to the buyers place and included the value of transportation in the assessable value of the goods. Therefore, appellant is entitled to avail cenvat credit on outward goods transportation agency services. In this term, we do not find any merit in the impugned order, same is set aside and appeal is allowed with consequential relief, if any*".

5. By following our earlier order (supra), we find no reason to sustain the impugned order and the same is hereby set aside..

6. In the result, appeal filed by the appellant is allowed.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)	Justice (Dr.) Satish Chandra)
Member (Technical)	President

Pant