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

**COURT-II**

**Date of hearing/decision: 18.08.2017**

**Appeal No.E/2619-2620/2010-SM**

[Arising out of the Revision Order No. 01-02/JP-II/2010/ST dated 10/03/2010, passed by the Commissioner of Central Excise-II, Jaipur)

TDM Bharat Sanchar Nigam Ltd & … Appellant
GMTD Bharat Sanchar Nigam Ltd

Vs.

CCE, Jaipur -II … Respondent

Appearance:
Present Shri O.P. Aggarwal CA for the appellant
Present Shri Ubhav Sengraj, DR for the respondent

**Coram: Hon'ble Mr.Ashok K. Arya, (Technical Member)**

**FINAL ORDER No. 56405-56406/2017**

**Per Ashok K. Arya :**

1. M/s TDM BSNL and GMTD Bharat Sanchar Nigam Ltd are in appeal against Revision Order Number 1 and 2 dated 10th March 2010 whereunder the appellants were disallowed Cenvat credits of Rs. 6,28,024/- and of Rs 12,73,135 respectively.
2. Brief facts are that:-
   i. Both the appellants are providing telecommunication services and availed cenvat credit of duties paid on

capital goods on the basis of ATD (Advice of Transfer of Debit Notes) issued by their CTDS/ Head Office (Central Telecom Store Department).

ii. Initially Additional Commissioner, Central Excise, Jaipur allowed the subject Cenvat credit to the appellants.

iii. However, by the impugned Revision Order, the Commissioner revised the order in original and disallowed the Cenvat credit against which the appellants are in appeal before the Tribunal.

3. Both sides have been heard.

4. After having carefully considered the facts of the case and the submissions of both the sides it appears that the matter is covered by the decision given by the Hon'ble High Court of Rajasthan in the case of *CCE V/s Bharat Sanchar Nigam Ltd.* 2016-TIOL-2597-HC-RAJ-CX. The Hon'ble Rajasthan High Court in the above case has observed as:-

> 7. We have heard counsel for the appellant and perused the impugned order and in our view, no substantial question of law arises out of the order of the Tribunal. It is undisputed fact that the assessee fall in the same Jaipur Circle where their Head Office transferred the ATDs on the capital goods transferred to them. The Tribunal, taking into consideration the fact that transfer of goods from one place to another is case of transfer of goods from one place to another unit and therefore, the credit taken on the basis of the bill of entry endorsed by the Head officer was valid document u/R.3 and 9 of the Cenvat Credit Rules, 2004 cannot be faulted.

> 8. It may also be noticed that even the Ld. DR representing the appellant also conceded that the issue is a settled one in favour of the assessee in its own case decided by CESTAT Bench at Chennai in BSNL Vs. CCE 2011 (22) STR 628=2011-TIOL-884-CESTAT-MAD and it was an undisputed fact noticed by the Tribunal that the fact that the capital goods in respect of which credit has been taken has been duly utilized by the assessee for rendering taxable output service which is also not disputed and accordingly, in our view, when the Ld. DR conceded that the issue is settled one and is based on finding of fact on the material available on record, we do not find any question of law much less substantial question of law which may be said to arise out of the order of the Tribunal.

4.1 Considering the fact that the subject items on which Cenvat credit has been taken have been utilized by the appellants and following the ratio of the decision of the Hon'ble Rajasthan High Court (supra) the impugned order is set aside and the appeals are allowed with consequential relief, if any, to the appellants.

5. In the result, appeal allowed.

[Order dictated and pronounced in the open court]

**(Ashok K. Arya)**
**Member (Technical)**

Rekha