In the Customs, Excise & Service Tax Appellate Tribunal
West Block No.2, R.K. Puram, New Delhi-110066

Appeal No.ST/2421/2012-SM
(Out of Order-in-Appeal No.05(AKJ)/ST/JPR-II/2012 dated 28.02.2012 passed by Commissioner (Appeals), CE, Jaipur-II)

Bharat Sanchar Nigam Ltd …Appellant

Vs`

CCE & ST Jaipur …Respondent

Appearance:
Present for the Appellant : Sh OP Agarwal, Advocate
Present for the Respondent : Sh GR Singh, DR

Coram: HON'BLE MR ASHOK JINDAL, MEMBER (JUDICIAL)

Date of hearing/decision: 28.09.2017

Final Order No.56905/2017

Per Ashok Jindal,

The appellant is in appeal against impugned order wherein inputs used for fabrication of tower which has been embedded to earth has been denied on the ground that the items, in question, neither input nor capital goods as per Rule 2(a)/Rule 2(k) of the Cenvat Credit Rules, 2004.

2. Heard both the parties.

3. Considering the fact that the Larger Bench of this Tribunal in the case of Tower Vision 2016(42) ST (249) (LB) held that all the items used for fabrication of towers which are embedded to earth, the assessee is not entitled to avail cenvat

credit, therefore, I hold that appellant is not entitled to for cenvat credit on items in question.

4. Further, I find that issue of the availment of cenvat credit on items, in question, was in dispute, therefore, the penalty imposed on the appellant is set-aside.

5. With these terms, the appeal is disposed-of.

(Pronounced & dictated in the open court)

(Ashok Jindal)
Member (Judicial)

pcs