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

Date of hearing/decision: 09.10. 2017

ST Appeal No. 56444 of 2013

(Arising out of order in-appeal No. 193(RDN)ST/JP-II/2012 dated 14.01.2012 passed by the Commissioner, Central Excise (Appeals) Jaipur-II).

GMTD, Bharat Sanchar Nigam Limited Appellant

Vs.

CCE, Jaipur-II Respondent

Appearance:

Sh. O.P. Agarwal, Advocate for the assessee
Sh. Sanjay Jain, AR for the Revenue

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. B. Ravichandran, Member (Technical)

Final Order No. 57111/2017

Per: **B. Ravichandran**:

We have heard both sides and perused appeal record.

2. The only point of dispute in the present appeal is the eligibility of the appellant to take credit on capital goods which were received and later despatched to other premises in connection with the telecommunication service. The Revenue entertained a view that these capital goods are not eligible for credit as they have violated the provisions of Rule 3(5) of Cenvat Credit Rules, 2004.

3. Ld. Counsel for the appellant brought to our notice that the identical set of facts was the subject matter of decision by this Tribunal in appellant's own case for Jaipur circle and decision of Hon'ble High Court of Madras reported as ***2017-TIOL-1487-HC-MAD-CX*** in appellant's own case for Salem circle.

4. On perusal of the case law relied upon by the appellant, we note that the ratio laid down therein are squarely applicable to the present appeal. Accordingly, on the same reasoning, we set aside the impugned order and allow the appeal.

(Dictated & pronounced in the open Court).

(Justice (Dr.) Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

Pant