IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/ Decision: 02.11.2017

Appeal No. E/58576/2013-EX[SM]
[Arising out of Order-in-Appeal No.48 (VC) CE/JPR-I/2013 dated 20.05.2013 passed by the Commissioner of Customs & Central Excise, (Appeals)-I, Jaipur]

Mangalam Cement Ltd Appellant

Vs.

CCE & ST, Jaipur-I Respondent

Appearance
Shri Rahul Lakhani, Advocate for the appellant
Shri K. Poddar, DR for the respondent

CORAM: **Hon'ble Mr. M.V. Ravindran, Member (Judicial)**

Final Order No. 57586/2017

Per M.V. Ravindran:

1. This appeal is directed against Order-in-Appeal No. 48/2013 dated 20.05.2013.

2. Heard both sides and perused records.

3. On perusal of records, it transpires that the issue is regarding denial of Cenvat credit to the appellant on the ground that the document on which Cenvat credit availed is not a proper document.

4. Ld. Counsel brings to my notice the documents on which Cenvat credit was availed annexed at page No. 64 and submits that this document indicates the payments of Service Tax, education cess and higher education cess and this document is not disputed by the lower Authorities. He would submit that the Service Tax liability has been discharged by the service provider on services which were

received by the appellant and consumed. He would rely on the decision of the Tribunal in the case of *Delphi Automotive Systems (P) Ltd V/s CCE, Noida* 2016 (46) STR 361 (Tri.- Del.)]. It is his further alternative submission that if the document at page No. 64 is not considered as an invoice, it should be considered as a supplementary invoice. It is his submission that definition of the understanding of the law as to whether invoice should also include supplementary invoice or otherwise settled by the Tribunal in the case of *Delphi Automotive Systems (P) Ltd.*

5. The Ld. Departmental representative reiterates the findings and submits that the issue is taking different stands at different places.

6. On careful consideration of the submissions made by the both sides and perusal of records, I find that the document annexed at page No. 64 needs to be reproduced.

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764
/01291
upta@kappa.net.in

[redacted]

~~ANNEXURE~~

09820402324
9351524526-33
07459-232294

(45) ANNEXURE-F (64)

M/s. R. K. Gupta

Mangalam Cement Ltd.
Aditya Nagar, MORAK - 326520 Distt. KOTA (Raj.)

Mangalam Cement Ltd Aditya Nagar Morak Kota (Raj.) 326520	W.O. No.............................. Date............................Period From..............To..................	Bill No. 1406 Date 10/2/10

Description	Quantity	Rate	Amount Rs. P.
Various Service provided (as per details enclosed) after the 3/12/05, Service tax paid for the Period from 2005 to 2009 Service Tax 72289 Edu. Cess 1448 Higher edu. Cess 413 74150			74150- ~~78166~~-
		TOTAL	74150-0 ~~78166~~-0

R-5401

For : M/s. R. K. Gupta

Gupta.

Partner

For Mangalam Cement Ltd.

Anil Kumar Mandot
Joint President (Commercial)

For Mangalam Cement Ltd.

Anil Kumar Mandot
Joint President (Commercial)

7. It can be seen from the above reproduced document that service provider has also indicated the amount of Service Tax paid by them for the period 2005 to 2009 and the invoice is dated 10/02/2010. There is no mentioning of any details is to which type of services he was rendering and what is the value of such services rendered. The said document also indicates that the description is as per details enclosed. I find from the records that no details are enclosed in the appeal memorandum. It is the case of the Ld. Counsel that they may be allowed to produce the said details. I find that this argument of the Ld. Counsel is also not tenable as the said details were not produced before the lower Authorities also. In my view, this document which is reproduced hereinabove cannot be considered as a document of on which Cenvat credit can be availed.

8. In my view, the judgment of the Tribunal in the case of *Delphi Automotive Systems (P) Ltd* is based on the specific and peculiar fact of that case, and the facts of the case in hand are totally different. Accordingly, in my view the ratio may not be applicable in the case in hand.

9. In view of the foregoing, the appeal stands rejected.

(Order dictated and Pronounced in open Court)

(M.V. Ravindran)
Member (Judicial)

Rekha