

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

Date of hearing/decision: 14.11.2017

S.T. Appeal No. 60415 of 2013

(Arising out of order-in-original No. COMMISSIONER/RPR/ST/75/2013 dated 17.07.2013 passed by the Commissioner, Central Excise, Raipur).

M/s Saumya Mining Limited Appellant

Vs.

CCE&ST, Raipur Respondent

Appearance:

Sh. Raj Kumar, C.A. for the appellant
Sh. Sanjay Jain, AR for the Respondent

Coram:

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

Final Order No. 57892/2017

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

The present appeal is filed against the order-in-original No. COMMISSIONER/RPR/ST/75/2013 dated 17.07.2013 passed by the Commissioner, Central Excise, Raipur.

2. Brief facts of the case are that the appellant are engaged in providing the site formation & clearance, excavation & earth moving and demolition services. The said services are subject to service tax. The appellant for the purpose, imported three machines. In the bills of entry, the address of the Head Office was given but the machines were used at site (Kolkata). So, the department has not allowed cenvat credit on the service tax paid. Being aggrieved, the present appeal is filed by the appellant.

3. With this background, we heard Sh. Raj Kumar, ld. CA for the appellant and Sh. Sanjay Jain, ld. AR for the Revenue.

4. After hearing both the parties and on perusal of record, it appears that the genuineness of the bill of entry is not in question. The only technical objection raised by the department is that the machines were not used at Head Office of the appellant. This is the only procedural mistake. It may be mentioned that to deny the substantial justice procedural obstacle cannot come into way. Hence, we set aside the impugned order and allow the claim of the appellant.

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

(Dictated and pronounced in the open Court).

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant

