

IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL,  
WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT – IV

**Service Tax Appeal No. E/52454/2018 [SM]**

[Arising out of Order-in-Appeal No. BHO-EXCUS-002-APP-088-18-19 dated 24.04.2018 passed by the Commissioner(Appeals) Central Excise, Customs & Service Tax, Raipur]

**Aarti Sponge & Power Ltd.** **...Appellant**  
**Vs.**  
**C.C.E. & S.T., Raipur** **...Respondent**

Present for the Appellant : Mr. Manish Saharan, Advocate  
Present for the Respondent: Mr. K. Poddar, AR

**Coram: HON'BLE MRS. ARCHANA WADHWA, MEMBER (JUDICIAL)**

**Date of Hearing/Decision: 27.12.2018**

**FINAL ORDER No. 53476 / 2018**

**PER: ARCHANA WADHWA**

The issue involved in the present Appeal is as to whether the appellants can avail the cenvat credit of service tax paid on the transportation of the goods by railway on the basis of photocopies of Railway Receipts (RR). The appellant's contention is that railways are issuing only one original RR which is required to be handed over for the release of the goods and as such they have no option but to avail the credit on the basis of the photocopy.

2. Ld. Advocate has also drawn my attention to Notification No. 26/14-CE (NT) dated 27.08.2014, amending the provisions of Rule 9(1) of the Cenvat Credit Rules, 2004 wherein a certificate issued by the railways for transportation of goods has been held to be an admissible cenvatable document. He submits that they approached the railways for issuance of the said certificate but they are not issuing the same in spite of following up the matter with the Railway Department. As such they should not suffer on account of inaction

on the part of the railways, in the absence of any other dispute about transportation of the goods.

3. I find that though a photocopy cannot be held to be admissible document but the Revenue is not disputing the fact that the goods stand transported through railways and such an appellant is otherwise entitled to the cenvat credit. The technical aspect should not come in the way of substantive benefit otherwise available to an assessee. The Government has also accepted the fact that railways are issuing only one original RR which led them to amend the provisions of Rule 9 so as to introduce the certificate issued by the railways as the requisite document. If the railways are not issuing the said certificate in spite of the assessee approaching them, the assessee cannot be denied the benefit on account of inaction of the railways.

4. In view of the foregoing, I find no justifiable reason to deny the credit to the appellant. Accordingly, the impugned order is set aside and Appeal is allowed with consequential relief.

[Dictated and pronounced in the open Court]

**(ARCHANA WADHWA)**  
**MEMBER (JUDICIAL)**

D.J.