CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.
PRINCIPAL BENCH - COURT NO. II

Service Tax Appeal No.51831 of 2018 - SM

[Arising out of Order-in-Appeal No.187(SM)ST/JPR/2018 dated 16.03.2018 passed by the Commissioner (Appeals), Central Excise and Central Goods & Service Tax, NCRB, Statue Circle, Jaipur-302 005.]

M/s.Shree Shyam Filaments **Appellant**
(A Division of Shree Rajasthan Syntex Limited)
'SRSL House', N.H.8, Pulla-Bhuwana Road,
Udaipur (Rajasthan).

VERSUS

Commissioner of Central Excise and Central Goods & Service Tax, **Respondent**
NCRB Statute Circle, C-Scheme,
Jaipur.

APPEARANCE:

Ms. Rinki Arora, Advocate for the appellant.
Shri Pradeep Gupta, Authorised Representative for the respondent.

CORAM: HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO.50988/2019

DATE OF HEARING: 26.06.2019
DATE OF DECISION: 26.06.2019

ANIL CHOUDHARY:

The issue involved in this appeal is whether the appellant has rightly discharged the service tax liability, as a receiver of GTA services, through the cenvat credit available to them.

2. heard the parties.

3. I find that the said issue has already been considered and decided in favour of the assessee by the Division Bench of this Tribunal in the case of **Shree Rajasthan Syntex ltd. Vs. CCE, Jaipur – 2011 (24) STR 670 (Tribunal-Delhi).** The relevant paras are quoted for reference as follows:-

5. However, we find that facts in the above case of ITC Ltd. are entirely different inasmuch as it is seen that M/s.ITC was 'neither manufacturing any dutiable product nor providing any output services to any customer or client. As such, it was observed that though the services received by them is deemed to be an output services but as the cenvat credit on inputs or input services was not available to them as no manufacturing activity was being undertaken or any output services was being provided, the question of paying of service tax through Cenvat credit account does not arise. In other words, the Bench observed that M/s.ITC was not entitled to avail any cenvat credit and as such there can be no account of any credit for utilisation towards payment of duty on the GTA services so received by them.

6. As discussed above, for the period prior to issue of Notification No.10/2008-CE (NT) dated 1.3.2008 the issue stands finally decided in favour of the appellant by various judgements referred supra and ITC decision not being relevant to the facts of the case, we by following the earlier precedent decisions on the issue involved, set aside the impugned orders and allow both the appeals with consequential relief to the appellants."

4. Accordingly, following the precedent ruling mentioned above, I allow the appeal in favour of the appellant, and set aside the impugned order. The appellant shall be entitled to consequential benefit as per law.

[Order dictated and pronounced in open court]

(Anil Choudhary)
Member (Judicial)

Ckp.