IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA

REGIONAL BENCH - COURT NO.2

Service Tax Appeal No.71404 of 2013

(Arising out of Order-in-Original No.20/ST/Commr./2013 dated 24.09.2013 passed by Commissioner of Central Excise & Service Tax, Ranchi.)

M/s. Aditya Birla Chemicals (India) Limited
(Earlier Known as M/s.Bihar Caustic & Chemicals Ltd.)
(At & P.O. Rehla, Palamu, Jharkhand

...Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Ranchi

.....Respondent

(Kendriya Rajaswa Bhawan, Main Road, Ranchi.)

<u>APPEARANCE</u>

Shri Dipro Sen, Advocate and Shri S.Agarwal, Chartered Accountant for the Appellant (s)
Shri A.Roy, Authorized Representative for the Respondent (s)

CORAM: HON'BLE SHRI S.K.MOHANTY, MEMBER(JUDICIAL)
HON'BLE SHRI BIJAY KUMAR, MEMBER(TECHNICAL)

<u>FINAL ORDER NO 77005/2019</u>

DATE OF HEARING : 17 December 2019
DATE OF DECISION : 17 December 2019

S.K.MOHANTY :

Heard both sides and perused the records.

2. In this case, the appellant had availed the services of goods transport agency and foreign consultant services and discharged Service Tax liability under Reverse Charge Mechanism, as recipient of such services. The Service Tax liability was discharging by making debit entry in the Cenvat account. Reversal of Cenvat credit through the Cenvat account was disputed by the department on the ground that in case of payment of service tax under Reverse Charge Mechanism, the

only recourse provided under the statute is to pay such tax by cash only and not through adjustment in the Cenvat account.

3. The issue arising out of the present dispute is no more *res integra* in view of the following judgements delivered by the judicial forums.

(a) Commr. Of C.Ex., Chandigarh v. Nahar Industrial Enterprises Ltd. [2012 (25) S.T.R. 129 (P & H)]

(b) Panchmahal Steel Ltd. v. Commissioner of C.Ex., & S.T., Vadodara [2014 (34) S.T.R. 351 (Tri.-LB)]

(c) Commr. Of CGST & C.Ex. v. M/s.U.S.V. Limited [2019 (7) TMI 567-Bombay High Court]

In the case of Nahar Industrial Enterprises Ltd. (supra) and Panchmahal Steel Ltd. (supra), payment of Service Tax on GTA Service under Reverse Charge Mechanism through the Cenvat account was held to be permissible under the Cenvat statute. In respect of foreign consultant service, in the case of U.S.V. Ltd. (supra), it has been ruled that such payment of Service Tax on the remittances made to the foreign consultants through debit in the Cenvat account is also permissible.

4. In view of the above, we do not find any merits in the impugned order in confirming the adjudged demands on the appellant. Accordingly, after setting aside the same, the appeal is allowed with consequential relief.

(Dictated and pronounced in the open Court.)

Sd/-
(S.K.MOHANTY)
MEMBER (JUDICIAL)

Sd/-
(BIJAY KUMAR)
MEMBER (TECHNICAL)

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