

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

REGIONAL BENCH - COURT NO.2

Service Tax Appeal No.480 of 2012

(Arising out of Order-in-Original No.40/S.Tax/Commr/2012 dated 11.07.2012 passed by Commissioner of Central Excise & Service Tax, Jamshedpur.)

M/s. Tata Steel Limited

(Legal Services Department, Jamshedpur-831001.)

...Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Jamshedpur

.....Respondent

(143, New Baradwari, Sakchi, Jamshedpur-831001.)

WITH

Service Tax Appeal No.481 of 2012

(Arising out of Order-in-Original No.40/S.Tax/Commr/2012 dated 11.07.2012 passed by Commissioner of Central Excise & Service Tax, Jamshedpur.)

Mr. Shobhit Shukla

(Tata Steel Limited, Legal Services Department, Jamshedpur-831001.)

...Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Jamshedpur

.....Respondent

(143, New Baradwari, Sakchi, Jamshedpur-831001.)

APPEARANCE

Dr.Samir Chakraborty, Senior Advocate & Shri Abhijit Biswas, Advocate for the Appellant (s)

Shri D.Halder, Authorized Representative for the Respondent (s)

CORAM: HON'BLE SHRI P. K.CHOUDHARY, MEMBER(JUDICIAL)

HON'BLE SHRI P.ANJANI KUMAR, MEMBER(TECHNICAL)

FINAL ORDER NO. 75028-75029 / 2021

DATE OF HEARING : 13 October 2020
DATE OF DECISION : 28 January 2021

P.K.CHOUDHARY :

Both the appeals are against the Order-in-Original No.40/S.Tax/Commr/2012 dated July 11, 2012 passed by the Commissioner of Central Excise & Service Tax, Jamshedpur disallowing Cenvat Credit of Service Tax availed by the appellant no. 1 ("TSL") during the period from April 2006 to March 2011 and confirming a demand amounting to Rs.6,96,10,852/- under Rule 14 of the Cenvat Credit Rules, 2004 read with the Proviso to Section 11A(1) of the Central Excise Act, 1944 and Section 73(1) of the Finance Act, 1994 (in short, "the Act"), along with interest under Rule 14 of the Cenvat Credit Rules read with Section 11AB of the Central Excise Act and Section 75 of the Act. The Commissioner also directed appropriation of the sum of Rs.83,86,784/-, already reversed along with interest by TSL against the said demand and imposed penalty upon TSL of an equivalent amount of the tax demanded, under Rule 15 of the Cenvat Credit Rules read with Section 11AC of the Central Excise Act and Section 78 of the Act. A penalty of Rs. 5,000/- has been imposed upon the appellant no. 2, the Chief of Financial Transaction Centre of TSL, Jamshedpur, under Rule 15A of the Cenvat Credit Rules.

2. The facts of the case in brief are:

(a) The appellant, Tata Steel Ltd. ("TSL") entered into a Brand Equity and Business Promotion Agreement ("BEBP") on 28.12.1998 with its holding company, Tata Sons Ltd. Under the agreement, Tata Sons Limited rendered service to TSL in the nature of 'Intellectual Property Services', taxable under Section 65(105)(zzr) of the Act. As consideration, TSL paid yearly subscription to Tata Sons Limited, which was based on a percentage of annual turnover of TSL.

(b) Tata Sons Limited issued invoices to TSL's Mumbai Head Office under Rule 4A(1) of the Service Tax Rules, 1994 charging, inter alia, service tax on the subscription amount. The Head Office of TSL in Mumbai, a registered "Input Service Distributor" ("ISD"), took credit of the service tax amount and distributed the entire credit to TSL's Jamshedpur Steelworks through ISD invoices issued under Rule 4A(2) of the Service Tax Rules. The Jamshedpur Steelworks utilised the said credit of service tax towards discharging its excise duty liability on dutiable final products manufactured and cleared from the Steelworks.

(c) For the intellectual property service rendered by Tata Sons Limited during a particular year the invoice was issued by Tata Sons Limited during the immediate succeeding year of the financial year in which the service was rendered. Such invoice issued by Tata Sons Limited contained details of the amount of subscription, the period for which the subscription was charged, service tax paid and all other relevant details.

(d) During the period involved, on the basis of the ISD invoices issued by Mumbai Head Office of TSL distributing the service tax paid on intellectual property service rendered by Tata Sons Limited, TSL availed cenvat credit of Rs.25,18,82,031/-.

(e) The Department, during audit of the appellant's accounts, raised objection and contended that TSL had incorrectly availed cenvat credit of the service tax involved on the basis of ISD invoices since the Mumbai Head Office should have distributed

the credit proportionately to all the divisions of TSL and not to the Jamshedpur Steelworks only. TSL denied such contention of the Department.

(f) However, since on scrutiny of its records TSL noticed that it had inadvertently availed credit of service tax of Rs.83,86,816/- which was attributable to its two collieries, West Bokaro and Jamadoba, which were engaged in manufacturing exempted goods, it reversed the said cenvat credit attributable to these mines along with interest payable thereon by debiting its RG 23 Part II on 01.04.2011 and 07.05.2011 respectively. The Department was informed about this by letters dated 06.5.2011 and 31.05.2011.

(g) On 08.08.2011 a show cause notice was issued by the Commissioner alleging that TSL had contravened Rules 3, 4(7) and 9(6) of the Cenvat Credit Rules inasmuch as it had taken irregular and inadmissible cenvat credit amounting to Rs.6,96,10,852/- (including education cess and secondary & higher education cess) on the strength of ISD invoices issued by its Head Office relating to service tax paid on intellectual property service as per Tata Brand Equity and Business Promotion Agreement dated 18.12.1998 with Tata Sons Limited, Mumbai. The show cause notice therefore proposed disallowance of the cenvat credit availed and recovery of the disallowed credit under Rule 14 of the Cenvat Credit Rules read with the Proviso to Section 11A(1) of the Central Excise Act and Section 73(1) of the Act, along with interest. The show cause notice also proposed imposition of penalties under Section 78 of the Act upon TSL and under Rule 26 of the Central Excise Rules, 2002 and Rule 15A of the Cenvat Credit Rules upon the appellant no.

2. Separate replies, both dated 17.05.2012, were filed by the appellants.

(h) The impugned order was thereafter passed by the Commissioner.

3. It is the contention of Dr. Samir Chakraborty, learned Senior Advocate appearing on behalf of the appellants as follows:

(i) The impugned order has been passed on complete misappreciation of relevant facts and the provisions of Rule 7 of the Cenvat Credit Rules read with Rule 2(m) thereof.

(ii) TSL, who carries on the business of manufacture and sale of iron and steel products, has its Steelworks at Jamshedpur in the State of Jharkhand and its registered and Head Office at Mumbai. TSL has the following divisions located in various parts of the country :

- a) Steel
- b) CRC West located at Tarapore, Maharashtra.
- c) Tubes Division at Jamshedpur, Jharkhand
- d) Bearings Division at Kharagpur in West Bengal.
- e) Ferro Alloys & Manganese Division (FAMD) having its Head Office at Kolkata in West Bengal.
- f) Wire Division at Tarapore, Maharashtra.
- g) CRM Sisodara in Gujarat (now closed)

Each of the divisions of TSL is a profit centre and consists of manufacturing units and/or mines located in different parts of the country.

(iii) The Steel Division consists of the following units:

- a) Steelworks at Jamshedpur
- b) Agrico Unit at Jamshedpur
- c) Collieries at Jharia
- d) Mines at Noamundi
- e) Collieries at West Bokaro.

(iv) Each manufacturing unit of the various Divisions, though separately registered in terms of Rule 9 of the Central Excise Rules, 2002 read with provisions of Notification No. 35/2001-CE (NT) dated June 26, 2001, do not have separate legal entity of their own. They are a part of TSL, who is also the manufacturer for the purposes of, inter alia, Rule 3 of the Cenvat Credit Rules.

(v) The agreement dated 18.12.1998 was entered into between TSL and Tata Sons Limited and not between the individual divisions of TSL and Tata Sons Limited. There is no mention in the agreement of any individual Division. There is also no mention of payment of subscription by the constituent division or divisions of TSL to Tata Sons Limited, inspite of the fact that benefit of the service rendered by Tata Sons Limited was enjoyed by all the divisions of TSL, since they are part of the same company, which is the recipient of such services.

(vi) The entire subscription payable under the agreement was paid by TSL's Mumbai Head Office and the Jamshedpur Steelworks respectively. None of the divisions made any proportionate contribution towards subscription for the subject services rendered by Tata Sons Limited to the said service provider. No part of the cost of such subscription paid to Tata Sons Limited was borne or accounted for by any of the divisions proportionately or otherwise.

(vii) None of the above facts have been disputed in the show cause notice or the impugned order.

(viii) No provision of the Cenvat Credit Rules, including Rule 7, prohibited, during the material period, input service tax paid at a particular unit being sought to be availed in another unit. Once the manufacturer is registered as an input service distributor in terms of Rule 7, it is entitled to distribute the credit of duty paid on such inputs in the manner prescribed to any of its unit keeping into account the limitations imposed by Rule 7. This is the settled proposition of law evident from the following decisions:

- (i) *Commissioner of C.Ex. Vs. ECOF Industries Pvt. Ltd., 2011 (271) ELT 58 (Kar)*
- (ii) *Commissioner of C.Ex. Vs. ECOF Industries Pvt. Ltd., 2012 (277) ELT 317 (Kar)*
- (iii) *United Phosphorus Ltd. Vs. Commissioner of C.Ex., 2013 (30) STR 509 (T).*

(ix) There is no "Tata Steel Group Companies". The company is Tata Steel Limited, which is duly incorporated and registered

under the Companies Act, 1956 as a public limited company. It has various divisions/units situated in various parts of the country. The registered and Head Office of the company, including of the said divisions/units, is at Mumbai, the ISD in the instant case. It is settled proposition of law that divisions and units of a company are not separate legal entities/persons. They are part and parcel of the same legal entity, the company, of which they are divisions/units. None of them can be termed as a company as per the Companies Act, 1956 and, as such, under any law of the country. As such, the divisions/units becoming companies of "Tata Steel Group", erroneously held in the impugned order, cannot and does not arise. Registration separately as per the provision of the Central Excise Act, 1944 or the Finance Act 1944 as per the requirement of the said statutes and/or the rules framed thereunder cannot and does not alter this settled legal position. In support, reliance has been placed upon the following decisions:

- (a) *Sahara India Commercial Corporation Vs. Commr. of C.Ex., 2019 (21) GSTL 170 (T)*
- (b) *Mahindra Logistics Ltd. Vs. CC, Ex. & ST, 2012-TIOL-1919-CESTAT-MUM.*
- (c) *Commissioner of Central Excise Vs. Dashion Ltd., 2016-TIOL-111-HC-AHM-ST*
- (d) *Commr. of C.Ex. Vs. National Engineering Industries Ltd., 2016 (42) STR 945 (Raj)*
- (e) *Titan Industries Ltd. Vs. Commissioner of Central Excise & Service Tax, 2019-TIOL-2525-CESTAT-MAD*
- (f) *Godrej Consumer Products Ltd. Vs. Commr. of GST & C.Ex., 2019 (369) ELT 841 (T).*

(x) Contrary to the erroneous finding of the Commissioner, the subject service, BEBP, on which service tax is paid upon classification as “intellectual property services” under Section 65(105)(zzy) of the Act. The Agreement allows user by TSL of the “Tata” brand name, on its products/goods manufactured at its factory in Jamshedpur. This enhances the marketability of the said goods. Thus the said services have been used by TSL, the manufacturer, indirectly in relation to the manufacture of final dutiable products in its factory, satisfying the requirement of the main part of Rule 2(I) of the Cenvat Credit Rules. The said service is also undisputedly a service used in relation to the business of manufacture of the subject goods indirectly, thus satisfying the requirement of the inclusive part of the definition of Rule 2(I) of the Cenvat Credit Rules. Hence, the said service duly qualifies as “input service” under Rule 2(I) of the Cenvat Credit Rules:

- (a) *Commissioner of Central Excise Vs. Ultratech Cement Limited, 2010 (260) ELT 369 (Bom)*
- (b) *Jubilant Life Sciences Ltd. Vs. Commissioner of Cus., C.Ex. & S.T., 2017 (3) GSTL 298 (T), para 6.*

(xi) The credit of Rs.83,86,784/- having been reversed along with interest as applicable by TSL on April 1, 2011 and May 7, 2011 respectively, prior to the issuance of the show cause notice on August 8, 2011, inclusion of the same in the show cause notice and confirming and thereafter directing appropriation of the said amount, which has already been reversed/paid along with interest, is contrary to law and unsustainable. Neither Section 11A(1) of the Central Excise Act nor Section 73(1) of the Act permit such an act.

(xii) Therefore the cenvat credit distributed by the Head Office of TSL at Mumbai, as ISD, to the Jamshedpur Steelworks of TSL is legal, valid, proper and in accordance with the relevant provisions of the Cenvat Credit Rules. Hence, the demand confirmed and penalties imposed are unsustainable and are to be set aside.

(xiii) Without prejudice the demand for the period from 2006-07 to 2009-10 is barred by limitation, the show cause notice having been issued beyond the prescribed period of one year, contained in Section 11A(1) of the Central Excise Act/Section 73(1) of the Act. The extended period of limitation contained in the respective Provisos to these sections are inapplicable in the facts and circumstances on record and particularly where TSL has regularly filed returns in the prescribed manner and within the prescribed periods, disclosing all relevant facts, including availing cenvat credit in the returns. The reasons contained in the impugned order for invoking the extended period are factually incorrect and, in any event, do not satisfy the requirements laid down by the Apex Court.

4. Shri D. Halder, learned Authorized Representative, appearing for the Revenue reiterates the findings of the learned Commissioner in the impugned order and prays for upholding the same.

5. We have heard the parties through video conferencing and have carefully perused the materials on record, including the BEBP Agreement dated 18.12.1998.

6. The issues involved in the instant case are:

- (i) Whether the service rendered by Tata Sons Ltd. under BEBP agreement dated 18.12.1998 between Tata Steel Ltd. and Tata Sons Ltd. is eligible as “input service” for TSL and the service tax paid is available as cenvat credit to TSL under the Cenvat Credit Rules, 2004?
- (ii) Whether TSL as ISD was entitled to, during the relevant period, distribute under the Cenvat Credit Rules, 2004, the credit of service tax paid as per the BEBP Agreement dated 18.12.1998 between itself and Tata Sons Ltd. exclusively to its Steelworks at Jamshedpur and not to other units of TSL?
- (iii) Whether any part of the demand is barred by limitation?

7. Re: Issue (i)

7.1 We find from the records that the service under the agreement was classified under Section 65(105)(zzv) of the Act as “intellectual property services” and service tax was paid accordingly.

7.2 The BEBP Agreement allows user by TSL of the “Tata” brand name, on its products/goods manufactured at its factory in Jamshedpur. Such user of the brand name enhances the marketability of the said goods. Hence, the services have been used by TSL, the manufacturer, indirectly in relation to the manufacture of final dutiable products in its factory at Jamshedpur. This satisfies the requirement of the main part of Rule 2(l) of the Cenvat Credit Rules. The said service is also a service used in relation to TSL’s business of manufacture of final products indirectly. The requirement of the inclusive part of the definition of Rule 2(l) of the Cenvat Credit Rules, as it then was, is also therefore satisfied. Hence, the said service is “input service” on which

TSL is eligible to avail cenvat credit, as held by the Hon'ble Bombay High Court in *CCE Vs. Ultratech Cement Ltd.* (supra).

7.3 A similar issue arose in the case of *Jubilant Life Services Ltd. Vs. Commissioner of Cus, C.Ex. & ST, 2019 (29) GSTL 319 (T-All)*. In this case input services were received and consumed in providing Scientific and Technical Consultancy Services by the R&D centres of the assessee to its own units for manufacturing drugs. In paragraphs 2 and 8 of the order, the Coordinate Bench of the Tribunal held as under:

"2. The issue in this appeal by the assessee manufacturing drugs and having their manufacturing facilities at different places in India like Gajraula in Uttar Pradesh, Nanjungad in Karnataka and Roorkee in Uttrakhand etc. is that the appellant for the purpose of Pharmaceutical formulation and manufacture of drugs, maintains two 'Research & Development centres' (R & D centres) owned and managed by the appellant which are located outside the factory premises and the 'Consultancy or Scientific and Technical Consultancy Service' is received by the manufacturing units of the appellant from the two R & D centres. The question for determination is, the admissibility of cenvat credit on input services utilised at the R&D centres of the appellant company and transferred to factory through input service distribution mechanism.

.....

8. Having considered the rival contentions, we find that the appellant have rightly taken cenvat credit as permissible under Rule 3 read with Rule 2(1) of CCR, 2004 as the services in question have been admittedly used by the manufacturer indirectly in relation to manufacture of final dutiable products. We also find that there is no dispute with regard to the distribution of the credit as permitted in the scheme of the Act and the Rules. In this view of the matter we hold

that the Learned Commissioner has erred in disallowing the cenvat credit. Accordingly, we allow the appeal and set aside the impugned order."

7.3.1 The appeal preferred by the Department against this order was dismissed by the Hon'ble Supreme Court, with the finding that there was no merit in the appeal [Commissioner Vs. *Jubilant Life Sciences Ltd.*, 2019 (29) GSTL 74 (SC)].

7.3.2 The principle followed in this decision is also applicable herein.

7.4 We therefore conclude that the service involved is an 'input service' under the Cenvat Credit Rules for TSL and the tax paid on such service is available as cenvat credit to TSL. Issue No. (i) is therefore answered in favour of the appellants.

8. Issue No. (ii)

8.1 Rule 2(m) and Rule 7 of the Cenvat Credit Rules, as in force prior to 01.4.2012, reads as follows:

"2(m) 'input service distributor' means an office of the manufacturer or producer of final products or provider of output service, which receives invoices issued under Rule 4A of the Service Tax Rules, 1994 towards purchases of input services and issues invoice, bill or, as the case may be, challan for the purposes of distributing the credit of service tax paid on the said services to such manufacturer or producer or provider, as the case may be."

"Rule 7. Manner of distribution of credit by input service distributor – The input service distributor may distribute the CENVAT

credit in respect of the service tax paid on the input service to its manufacturing units or units providing output service, subject to the following condition, namely:-

- (a) the credit distributed against a document referred to in Rule 9 does not exceed the amount of service tax paid thereon; or*
- (b) credit of service tax attributable to service use in a unit exclusively engaged in manufacture of exempted goods or providing of exempted services shall not be distributed.”*

8.2 The definition of “Input Service Distributor” in Rule 2(m) of the Cenvat Credit Rules makes it clear that the manufacturer or the producer of a final product or the provider of output service may have more than one unit which may be situated in various parts of the country. It is in this background that an input service distributor is defined as office of the manufacturer or producer of a final product or provider of output service which receives invoices issued under Rule 4A of the said Rules towards purchases of input service and issues invoice, bill or challan for the purpose of distributing the credit of service tax paid on the said service to such manufacturer or producer or the provider, as the case may be. Therefore the law mandates that the manufacturer who wants to avail benefit of credit of this service tax, if it has more than one unit, should also get registered itself as a service provider, whereupon it would be able to collect the input service tax paid in all the units and accumulate them at its Head Office and thereafter distribute the said credit to its various units in the manner specified in Rule 7 of the Cenvat Credit Rules.

8.3 Rule 7 provides for only two limitations, viz., firstly it cannot exceed the amount of service tax paid and secondly the credit of service tax attributable to services used shall not be distributed in a unit exclusively engaged in the manufacture of exempted goods or providing of exempted service. Once the manufacturer is registered as

ISD it is therefore entitled to distribute the credit of duty paid on the inputs in the manner prescribed in any of its units within the limitations imposed under Rule 7, as held by the Hon'ble Karnataka High Court in *CCE Vs. Ecof Industries Ltd., 2011 (271) ELT 58 (Kar)*. Referring to Rules 2(l), 2(m) and 7 it has been observed and held therein as follows:

"8. Therefore, only two limitations are put for the distribution of credit by an Firstly, it cannot exceed the amount of service tax paid and secondly, the credit of service tax attributable to service used shall not be distributed in a unit exclusively engaged in the manufacture of exempted goods or providing of exempted services.

9. In fact, the Board has issued a circular clarifying in this regard, which is extracted by the Tribunal at para 7 which reads as under:-

'Para 7. Para 2.3 of the Master Circular referred to by the Id. Advocate reads as under:-

2.3 An 'input service distributor' is an office or establishment of a manufacturer of excisable goods or provider of taxable service. It receives tax paid invoices/bills of input services procured (on which cenvat credits can be taken) and distributes such credits to its units providing taxable services or manufacturing excisable goods. The distribution of credit is subject to the conditions that – (a) the credit distributed against an eligible document shall not exceed the amount of service tax paid thereon, and (b) credit of service tax attributable to services used in a unit either exclusively manufacturing exempted goods or exclusively providing exempted services shall not be distributed. An input service distributor is required (under Section 69 of the Act, read with Notification No. 26/2005-ST) to take a separate registration.

10. Therefore, these are the only two limitations, which are imposed in Rule 7 preventing the manufacturer from utilizing the CENVAT credit, otherwise, he is entitled to the said credit. Merely because the input service tax is paid at a particular unit and the benefit is sought to be availed at another unit, the same is not prohibited under law. It is in this context, the manufacturer is expected to register himself as a input service distributor and thereafter, he is entitled to distribution of credit of such input in the manner prescribed under law. Therefore, the order passed by the Tribunal is legal and valid and does not suffer from any legal infirmity and does not call for any interference and therefore it is dismissed."

8.3.1 The Hon'ble Gujarat High Court also, in the case of CCE Vs. *Dashion Ltd.* (supra), where a similar issue arose for consideration, observed and held as under:

"5. Rule 7 pertains to manner of distribution of credit by input service distributor. At the relevant time, this Rule 7 permitted input service distributor to distribute cenvat credit in respect of service tax paid on the input service to its manufacturing units or units providing output service, subject to the two conditions, viz:-

- '(a) the credit distributed against a document referred to in Rule 9 does not exceed the amount of service tax paid thereon;
- (b) credit of service tax attributable to service (used by one or more units) exclusively engaged in manufacture of exempted goods or providing of exempted service shall not be distributed.'

5.1 It was only later on that additional condition by way of Clause (d) to Rule 7 was added, which reads as under:

'credit of service tax attributable to service used by more than one unit shall be distributed pro rata on the basis of the turnover of such units during the relevant period to the total turnover of all its units, which are operational in the current year, during the said relevant period.'

6. *The first objection of the Department therefore that the credit from one unit was utilized for the purpose of duty liability of other unit without pro rata distribution by the input service distributor therefore would not survive in view of no previous restriction of this nature flowing from Rule 7 of the Rules of 2004....."*

8.4 Further, on perusal of the records, we are of the view that TSL have rightly contended that there is no "Tata Steel Group Companies". The company is Tata Steel Limited, which is incorporated and registered under the Companies Act, 1956 as a public limited company. It has various divisions/units situated in various parts of the country, as detailed hereinabove. The registered and Head Office of the company, including of the said divisions/units, is at Mumbai, the ISD in the instant case. No evidence to the contrary is disclosed in either the show cause notice or in the impugned order, as well as in the instant proceedings. It is settled proposition of law that divisions and units of a company are not separate legal entities/persons. They are part and parcel of the same legal entity, the company, of which they are divisions/units. None of them can be termed as a company as per the Companies Act, 1956. Registration separately as per the provision of the Central Excise Act, 1944 or the Finance Act 1994 as per the requirement of the said statutes and the rules framed thereunder cannot and does not alter this settled legal position.

8.4.1 In *Sahara India Commercial Corporation Vs. Commr. of C.Ex.* (supra), a Coordinate Bench of the Tribunal, following the decision of

another Coordinate Bench of the Tribunal in *Mahindra Logistics Ltd. Vs. CC, Ex. & ST, 2012-TIOL-1919-CESTAT-MUM*, dealing with a similar case, held as under:

“7. After considering the submissions of both sides and perusal of material on records, we find that AVL was earlier part of the appellant but demerged from the appellant in the year 2008 by a scheme of arrangement and as per the scheme of arrangement, AVL is required to pay royalty to the appellant for use of ‘Sahara’ brand @5% of the annual turnover. We also find that the invoice raised by the appellant on AVL specifically provides that the service tax will be paid by SITV. Further we find that though SITV is separately registered with the Service Tax Department, but it is not a separate legal entity rather it is a division of the appellant who has discharged the service tax liability on behalf of the appellant and this does not tantamount to discharging the service tax liability of another company because the appellant and SITV form part of the same company and it is only a division of the appellant. Further we find that the decisions relied upon by the appellant have also considered this aspect and held that division of a company is not a separate company and the payment of service tax by the division would be deemed to be the payment by the company. In the case of Mahindra Logistics Ltd., the Tribunal held in para 6 as under:-

6. Considering the submissions made by the Learned Chartered Accountant, we find that Mahindra and Mahindra Limited is a legal entity which is having two separate divisions. Merely by taking two separate service tax registrations, it cannot be said that both are separate legal entitled. Therefore, demand for the period 15.12.2007 to 10.9.2008 is not sustainable.”

8.5 The abovestated decisions of the Hon'ble High Courts and the Tribunal are fully applicable herein. Respectfully following the

principles laid down in the said decisions we hold that TSL as ISD was entitled to distribute the credit of the service tax paid in respect of the service rendered under the BEBP Agreement exclusively to its Jamshedpur Steelworks during the relevant period. Issue (ii) is also therefore decided in favour of the appellants.

9. We therefore are of the view that the cenvat credit amount involved has been correctly availed, distributed and utilised by the appellants. The tax demanded and penalties imposed upon the appellants are thus unsustainable. The impugned order cannot be sustained.

10. In view of the abovestated findings, we do not consider necessary to deal with Issue (iii).

11. The impugned order passed by the Commissioner is therefore set aside and the appeals are allowed, with consequential relief, if any.

(Order pronounced in the open court on 28 January 2021.)

SD/
(P.K.CHOUDHARY)
MEMBER (JUDICIAL)

SD/
(P.ANJANI KUMAR)
MEMBER (TECHNICAL)