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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 24 of 2007

(Arising out of Order-in-Original No. 16/ST/Commr/2006 dated 27.02.2007 (along with corrigendum) passed by the Commissioner of Central Excise, Ranchi, Central Revenue Building, 5, Main Road, Ranchi – 834 001)

M/s. Bharat Sanchar Nigam Limited **: Appellant**
Ranchi Telecom District,
Ranchi

VERSUS

Commissioner of Central Excise **: Respondent**
Ranchi, Central Revenue Building, 5, Main Road,
Ranchi – 834 001

APPEARANCE:

Shri Nitin Kumar Pasari, Advocate
Shri Anand Kumar Pasari, Advocate
Shri Akshat Agarwal, Advocate
for the Appellant

Shri K. Chaudhuri, Authorized Representative
For the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76959 / 2024

DATE OF HEARING / DECISION: 05.09.2024

ORDER: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order wherein the CENVAT Credit was sought to be denied on account of discrepancy noticed in the invoices on the strength of which the appellant had taken CENVAT Credit - either they were not having proper details, or the CENVAT Credit had been availed by one circle whereas the service had been provided by another circle.

2. The facts of the case are that the CENVAT Credit was sought to be denied on various services, the details of which are as under: -

1	Invoice marked with not for CENVAT purpose (Reversed during investigating period) (Noticee No 1)	220038
2	Not proper document for taking CENVAT Credit / invoices issued in the name of Circle Office (Noticee No. 1)	716410
3	Credit taken without Invoice / no details provided (Noticee No. 1)	49442
4	Credit taken on different material issued to other SSA, invoices issued in the name of Circle Office (Noticee No. 1)	2168666
5	Credit taken on U/G Telephone Cable issued to different SSA, invoices issued in the name of Circle Office (Noticee No. 1)	6543276
6	Credit taken on Invoice issued in the name of Circle office (Noticee No. 1)	617599
7	Credit taken on Original B/E issued in the name of Circle office and no payment particulars has been mentioned, taken excess credit of Rs.382127 (ED) & Rs.7643 (Cess) (Noticee No. 1)	856437
8	Credit taken on not eligible goods like Flood light tower, invoices issued in the name of Circle Office, and excess credit	4015570

	taken of Rs.12069 (Edu. Cess) at sl. no. 113 & 1114 & do no qualify as capital goods as per definition given in Rule 2 of Cenvat Credit Rule, 2004 (Noticee No. 1)	
9	Credit taken on Invoice issued in the name of Circle office (Noticee No. 1)	119998
10	Service Tax credit taken on invoice issued before 10.09.04, invoices issued in the name of GMTD, Ranchi (Noticee No. 2)	18706
11	Service Tax credit taken on invoice issued in the name of Circle Office & before 10.09.04 (Noticee No. 1)	97641
12	Service Tax credit taken on invoice issued in the name of Circle Office (Noticee No. 1)	18949
13	Credit taken on different material issued to other SSA, Jamshedpur & Dhanbad (Noticee No. 2)	100168
14	Not proper document for taking CENVAT Credit (Electrical Division) (Noticee No. 2)	76417
15	Credit taken on not eligible goods like Ceiling fan, Chock, Electronic blast, Decorative lamp etc. (Noticee No. 2)	340228
16	No proper account / register maintained (Noticee No. 2)	377968

[ref. Show Cause Notice dated 22.03.2006]

3. The Revenue has sought to deny the said credit to the appellant on the ground that:

(i) Proper documents were not provided by the appellant; or

(ii) Invoices were in the name of one circle and credit had been availed by another circle of the appellant.

4. The matter was adjudicated by way of the impugned order and the denial of CENVAT Credit was confirmed, along with interest; penalties were also imposed on the appellant.

4.1. Against the said order, the appellant is before us.

5. Heard the parties.

6. We find that in respect of the items mentioned at Sl. Nos. 1 to 16 above, except Sl. No. 15, the main allegation of the Revenue is that one circle has availed the CENVAT Credit whereas the invoices were in the name of another circle.

6.1. It is observed that the appellant is one; and the appellant engaged in the activity of providing services through their circle offices. All the circle offices are one and the same i.e., of the appellant themselves. It is not the case of the Revenue that the CENVAT Credit was availed by the circle in whose name the invoice is issued. In fact, only one circle has taken the CENVAT Credit on the invoices in question, which is part of the appellant themselves. In these circumstances, we hold that CENVAT Credit cannot be denied to the appellant.

7. With regard to Sl. No. 15 above, the appellant has conceded that they are not entitled to avail CENVAT Credit. Therefore, we uphold the denial of CENVAT Credit to the tune of Rs.3,40,228/- and the same is liable to be paid by the appellant, along with interest.

8. Rest of the CENVAT Credit is allowed, to the appellant.

9. In the facts and circumstances of the case, we hold that no penalty is imposable on the appellant.

10. In these terms, the appeal is disposed of.

(Operative part of the order was pronounced in open court)

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd