

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

REGIONAL BENCH – COURT NO. 2

Excise Appeal No. 76912 of 2018

(Arising out of Order-in-Original No. 39/S.Tax/Pr.Commr./2018 dated 16.02.2018 passed by the Principal Commissioner of Central Goods & Service Tax & Central Excise, Central Revenue Building, 5A, Main Road, Ranchi – 834 001)

M/s. Steel Authority of India Limited

: Appellant

Bokaro Steel Plant,
Bokaro Steel City – 827 001

VERSUS

Pr. Commissioner of C.G.S.T. and Central Excise

: Respondent

Central Revenue Building, 5A, Main Road,
Ranchi – 834 001

APPEARANCE:

Smt. Ekta Jhunhunwala, Advocate
Assisted by Shri Deepto Sen, Advocate,
For the Appellant

Shri S.K. Dikshit, Authorized Representative,
For the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)

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

FINAL ORDER NO. 77773 / 2025

DATE OF HEARING / DECISION: 25.11.2025

ORDER: [PER SHRI R. MURALIDHAR]

The appellant, in the course of their operations, have taken CENVAT Credit of Rs.34,61,434/- on account of Service Tax paid on technological and operational services rendered by the foreign entity in the years 1998 and 1999. They have also taken CENVAT Credit of Rs.25,82,950/- on account of Service Tax paid for e-auction services received towards sale of scrap from their factory premises.

2. An audit was conducted during December 2009 and the audit pointed out about the ineligibility of CENVAT Credit on these two services vide their Report dated 19.12.2009.

2.1. The appellant filed their reply, defending their stand.

2.2. Subsequently, on 24.09.2013, a Show Cause Notice was issued demanding reversal of these amounts.

2.3. After due process, the Id. adjudicating authority confirmed the demands, along with interest and penalty.

2.4. Being aggrieved, the appellant is before the Tribunal.

3. The Id. Counsel appearing on behalf of the appellant submits that in respect of the first issue, the services were rendered by the foreign entity during the period 1998-99; however, there was some negotiation going on with them about the actual amount to be paid, which was arrived at by both the parties only in 2008. She informs that after this, the overseas party raised the invoice; on the payments made towards such invoice, the appellant paid Service Tax on reverse charge basis and the same was taken as CENVAT Credit since the services rendered fell within the definition of Rule 2(I) of the CENVAT Credit Rules, 2004.

3.1. In respect of the e-auction services, she submits that whenever scrap was to be sold, the same was sold by way of calling for tenders through e-auction; for the agency rendering the e-auction service, the appellant has paid the invoiced value, along with

Service Tax thereon. She submits that since this is related to their manufacturing and clearance activities, they are eligible for CENVAT Credit.

3.2. She further submits that the delayed issue of the Show Cause Notice on 24.09.2013 renders the entire demand barred by limitation. It is submitted that the appellant has disclosed all the details of CENVAT Credit being taken in their monthly Returns; therefore, there is no basis for the allegation of suppression on their part.

3.3. In view of the foregoing submissions, the Ld. Counsel for the appellant prays that the appeal be allowed, both on merits as well as on account of time-bar.

4. The Ld. Authorized Representative of the Revenue submits that the services were rendered by the overseas party during the period 1998 to 1999 when the same were not liable for any Service Tax, to be paid under reverse charge mechanism; however, the appellant mis-declared the same and obtained one invoice in 2008 and made the payment. He submits that it is not believable that the overseas party would wait for more than nine years to get their payment. Therefore, he justifies the confirmed demand on this score.

4.1. In respect of the e-auction services, he submits that this is unrelated to their manufacturing activity and therefore, justifies the confirmed demand.

5. Heard both sides, perused the appeal papers and the submissions made by both the sides.

6. We find that in respect of the overseas services rendered in 1998 and 1999, in the first place, there was no Service Tax liability, as has been correctly canvassed by the Ld. Authorized Representative representing the Revenue. The Hon'ble Bombay High Court in the case of *Indian National Shipowners Association v. Union of India* reported in 2009 (13) S.T.R. 235 (Bom.), duly affirmed by the Hon'ble Supreme Court as reported in 2010 (17) S.T.R. 157 (S.C.), has held that no Service Tax is payable for the services rendered by overseas entities till 17.04.2006. Therefore, technically speaking, no Service Tax is required to be paid on reverse charge basis for the services rendered during 1998 and 1999.

6.1. However, from the factual matrix, we find that the appellant had been negotiating with the overseas service provider, who has raised the invoice only in the year 2008, for which the payment has been done in 2008. By this time, reverse charge mechanism (RCM) procedure had already been notified for such overseas services. Therefore, the appellant cannot be faulted for making the Service Tax payment on RCM basis.

6.2. In case the Department feels that no Service Tax was payable in 1998 and 1999, then they should not have accepted the payment made by the appellant on RCM basis in 2008. It is also not the case of the Department that the services rendered by the overseas service provider is not an "input service" in terms of Rule 2(I) of the CENVAT Credit Rules, 2004.

6.3. Therefore, considering these aspects, we set aside the demand of Rs.34,61,434/-.

7. Coming to the denial of CENVAT Credit on the e-auction services, we find that Rule 2(l) allowed all services used directly or indirectly, in or in relation to manufacture to be eligible for CENVAT Credit. Scrap is generated in the process of manufacture and then, the same is required to be cleared from time to time, in order to continue the manufacturing process. Therefore, we do not find any substance in the allegation made by the Revenue. Accordingly, we set aside the demand of Rs.25,82,950/-, on merits.

8. We also find sufficient force in the appellant's argument that the Revenue could not have invoked the extended period provisions in this case. We find that the appellant has been declaring the CENVAT taken in their monthly Returns and even the audit had pointed out these issues way back in 2009. Therefore, the Department could not have taken more than three years to issue the Show Cause Notice. Holding that no case of suppression has been made out against the appellant, we set aside the confirmed demands even on account of time-bar.

9. Thus, the appeal is allowed, with consequential relief, if any, as per law.

(Dictated and pronounced in the open court)

Sd/-

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)