IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH AT MUMBAI

COURT No. I

Appeal No. E/88124/13

(Arising out of Order-in-Appeal No. RPS/155 & 156/NSK/2013 dated 15.05.2013 passed by Commissioner of Central Excise & Customs (Appeals), Nasik)

Seam Engineers **Appellant**
Vs.

Commissioner of Central Excise Nashik **Respondent**

Appearance:

Shri Sanandan Khairnar, Advocate for appellant
Shri D.S. Chauhan, Supdt. (AR) for respondent

CORAM:

Hon'ble Mr. M.V. Ravindran, Member (Judicial)

Date of Hearing & Decision: 15.03.2018

FINAL ORDER NO. A/85837/2018

Per: M.V. Ravindran

This appeal is directed against order-in-appeal No. RPS/155 & 156/NSK/2013 dated 15.05.2013.

2. Heard both sides and perused the records.

3. Learned Counsel submits that this is second round of litigation and in the first round of litigation, the Tribunal remanded the matter back to the adjudicating authority to

reconsider the issue by following principles of natural justice. It is his submission that they sought cross-examination of various persons to establish there was no availment of wrong CENVAT credit. On specific enquiry from the bench as to whether they still insisting for cross-examination, learned Counsel submits that the entire case of Revenue is made out of various statements of the individuals hence in order to bring out the truth, cross examination is required.

4. In my considered view, the issue needs reconsideration by the adjudicating authority as the law on cross examination is settled by the Hon'ble Punjab & Haryana High Court in the case of *Jindal Drugs Pvt. Ltd. vs. Union of India – 2016 (340) ELT 67 (P&H).* Accordingly, the matter is remanded to the adjudicating authority to reconsider the issue afresh after following the judgement as settled in the case of *Jindal Drugs Pvt. Ltd* (supra) and after following the principles of natural justice.

5. Appeal stand disposed of by way of remand.

(Order dictated in Court)

(M.V. Ravindran)
Member (Judicial)

nsk