

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT No. I
APPEAL No. E/86089/2018, E/86090/2018**

(Arising out of Order-in-Appeal No. PUN-EXCUS-001-APP/2017-18 passed by Commissioner (Appeals-I), Central Tax, Pune)

Sharda Motor Industries LTD

Appellant

Vs.

Commissioner of Customs Excise,
Pune (I)

Respondent

Appearance:

Ms. Anjali Hirawat (Advocate), for appellant
Shri S. J. Sahu, AC (AR), for respondent

CORAM:

Hon'ble Mr. S.K. Mohanty, Member (Judicial)

Date of Hearing: 18/06/2018

Date of Decision: 18/06/2018

ORDER NO. A/86764-86765/2018

Per: S. K. Mohanty

Heard both sides and perused the records.

2. Denial of CENVAT credit of service tax paid on outdoor catering service is the subject matter of present dispute. The authorities below have denied the Cenvat benefit to the appellant, holding that in view of exclusion clause provided in the definition of input service with effect from 1/04/2011, such service should not be considered as input service for the purpose of availment of Cenvat benefit, when the same is used by the employees of the assessee.
3. Both sides agree that due to divergent views on the subject issue by different benches of the Tribunal, in the case of WIPRO

Ltd., the Bangalore Bench of the Tribunal vide Interim Order No. 19/2017 dated 24.04.2017, in Appeal No. E/20420/2015 – SM has referred the matter to the Hon’ble President for constitution of a Larger Bench for resolving the conflict between the Benches of the Tribunal.

4. Considering the fact that the issue involved in these appeals are identical and for the same issue, the matter has already been referred by the coordinate Bench for resolving the dispute through the Larger Bench, I am of the view that this appeal can also be tagged with the case of WIPRO Ltd. for deciding the issue by the larger Bench.

5 Accordingly, registry is directed to transfer these case files to the Hon’ble President of the Tribunal for necessary approval, for listing before the larger Bench along with appeal of WIPRO Ltd. (supra).

(Dictated in court)

(S.K. Mohanty)
Member (Judicial)