IN THE CUSTOMS, EXCISE AND SERVECE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH AT MUMBAI
COURT NO. IV

APPEAL NO. ST/87875/2018

(Arising out of Order-in-Appeal No. MKK/669/RGD-APP/2017-18 dated 29.03.2018 passed by the Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigarh.)

M/s Tata Teleservices Appellant

Vs.

Commissioner of CGST, Belapur Respondent

Appearance:

Shri Sanjeev Nair, Advocate for Appellant
Shri Sudhir B. Mane, Assistant Commissioner (AR) for Respondent

CORAM:

HON'BLE SHRI AJAY SHARMA, MEMBER (JUDICIAL)

Date of Hearing: 15.10.2018
Date of Decision: 15.10.2018

ORDER NO. A/87646/2018

Per: Ajay Sharma

This appeal is directed against Order-in-Appeal No. MKK/669/RGD-APP/2017-18 dated 29.03.2018 passed by the Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigarh.

2. I have heard Learned Counsel for the Appellant and Learned Authorised Representative for the Revenue and perused the records. The dispute in question is regarding denial of CENVAT credit to the Appellant for the period from 2009-10 to 2011-12. Learned Authorised Representative for

the Revenue has submitted that the Appellant failed to produce invoices in question before any of the Authorities below. While going through the Adjudication Order, I find that it has been specifically observed therein that the appellant did not produce any authentic and reliable documents in support of their claims before them. In the impugned order also it has been specifically observed by the Commissioner (Appeals) that in spite of clear findings by the Adjudicating Authority about non-submission of complete set of invoices, the Appellant had again only submitted the specimen invoices only for renting of space conferences, seminar, electricity recovery and miscellaneous service in the appeal proceedings. Learned Counsel for the Appellant did not dispute the fact and submitted that if one more opportunity is given to them, then the Appellant will produce all the invoices in question. In my view, the entire case needs reconciliation by the Adjudicating Authority after taking into consideration all the invoices to be filed by the Appellant. Accordingly, without expressing any opinion on merits, I set aside the impugned order and remand the matter back to the Adjudicating Authority for *denovo* adjudication after following the principles of natural justice. The Appellant is directed to co-operate with the Adjudicating Authority by submitting all the invoices/documents they wish to rely upon. The appeal is therefore allowed by way of remand.

(Dictated & pronounced in open Court)

(Ajay Sharma)
Member (Judicial)

Prasad