**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**
**WEST ZONAL BENCH AT MUMBAI**
**COURT NO. I**

**Appeal No. E/86769/15 & ST/86768/15**

(Arising out of Order-in-Original No. 09/PR. COMMR(WLH)/LTU-M/CEX/2015 dated 4.6.2015 passed by the Principal Commissioner of Central Excise & Service Tax, LTU, Mumbai).

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| **M/s KSB Pumps Ltd.** | Appellant |

Vs.

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| Commissioner of Central Excise & Service Tax (LTU), Mumbai | Respondent |

Appearance:

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| Shri E.P. Bharucha, Sr. Advocate with<br>Shri Arzan Bulsara, Advocate and<br>Shri M.P. Joshi, Advocate | for Appellant |

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| Shri M. Suresh, Dy. Commissioner (AR) | for Respondent |

And

**Appeal No. E/86577/15**

(Arising out of Order-in-Original No. 09/PR. COMMR(WLH)/LTU-M/CEX/2015 dated 4.6.2015 passed by the Principal Commissioner of Central Excise & Service Tax, LTU, Mumbai).

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| **Commissioner of Central Excise & Service Tax (LTU), Mumbai** | Appellant |

Vs.

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| M/s KSB Pumps Ltd. | Respondent |

Appearance:

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| Shri M. Suresh, Dy. Commissioner (AR) | for Appellant |

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| Shri M.P. Joshi, Advocate | for Respondent |

CORAM:

**HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)**
**HON'BLE MR. C.J. MATHEW, MEMBER (TECHNICAL)**

Date of Hearing: 26.10.2018

Date of Decision: 26.10.2018

ORDER NO. **A/87876-87878/2018**

***Per: Dr. D.M. Misra***

These appeals are filed by the appellants as well as Revenue against Orders-in-Original No. 09/PR. COMMR(WLH) /LTU-M/CEX/2015 dated 4.6.2015 passed by the Principal Commissioner of Central Excise & Service Tax, LTU, Mumbai.

2. Briefly stated the facts of the case are that the appellants are engaged in manufacture of excisable goods namely, Power Driven (PD) Pumps falling under falling under Chapter 84 of Central Excise Tariff Act, 1985 at their factory at Pimpri. They have availed CENVAT Credit in respect of duty paid on inputs, capital goods and input services used in or in relation to manufacture of excisable goods. Besides the activity of manufacturing of pumps at the said factory, they had another manufacturing units at Chinchwad, Sinnar, Vambori and Coimbatore, where they had obtained separate registration. Besides the manufacturing activity, the appellant's Pimpri unit also possesses centralized Service Tax registration under Pune-I Commissionerate for payment of Service Tax under Rule 4 of Service Tax Rules, 1994 in respect of taxable output services provided from their Pipmri factory, Chinchwad factory as well as other service outlets/Branch Office located all over India, for which centralized accounts are maintained at Pimpri only. Similarly, the Sinnar and Coimbatore unit has their separate central excise registration for payment of excise duty on excisable goods manufactured by the respective units. On the basis of

investigation, it was alleged that the appellant had availed CENVAT Credit on various input services at their Head Office at Pimpri, when they had registered as Input Service Distributor (ISD) only w.e.f. 4.9.2008. Alleging that the appellant had incorrectly availed CENVAT Credit of Service Tax paid on various input services in relation to services provided at their other factory and branch offices, show cause-cum-demand notice was issued for recovery of the Service Tax credit wrongly availed during the period Sept, 2004 to March, 2009. On adjudication, the demands were confirmed with interest and penalty. Hence, the present appeal.

3. Learned Sr. Advocate Shri E.P. Bharucha for the appellants submits that all the relevant documents relating to the credit availed on various input services at their factory along with supporting evidences have not been placed before the learned Commissioner during the course of adjudication proceedings. He submits that they may be allowed an opportunity to produce all the relevant documents before the authorities below in support of their claim that the credit on the input services has been correctly availed by them. In support, they have placed certificates of Service Tax registration of different locations and various other documents which were not placed before the adjudicating authority.

4. Learned AR for the Revenue reiterated the findings of the learned Commissioner. He has submitted that the relevant documents in support of their claim that the input service credit had been correctly availed at their Head Office had not been

produced before the authorities below. He has no objection in remanding the case back to the adjudicating authority, however, it is his contention that a time frame may be fixed for *de novo* proceedings.

5. We have carefully considered the submissions advanced by the learned Sr. Advocate and the Revenue.

6. The short issue involved in the present appeal is whether the appellants are entitled to avail CENVAT Credit of Service Tax paid on various input services at their head office i.e. place where the factory is also situated. It is their contention that centralized accounting/billing system since carried out at their head office, therefore, the Service Tax paid in providing output services from different establishment could be availed and utilized at their head office. The learned Sr. Advocate has submitted that before the adjudicating authority they could not produce the relevant evidences in support of their claim that the credit has been availed at their head office wherefrom centralized billing was undertaken even though services were rendered from various other locations. The Revenue, on the other hand, submitted that since each location has separate registration with the Department, therefore, credit cannot be availed at their head office only.

7. To resolve the issue, in our opinion, it is prudent to remand the matter back to the adjudicating authority to re-assess the evidences in the light of the claim of the appellant that they had a centralized billing/accounting system at the places where they

have availed the credit on various input services used in or in relation to manufacture of goods taking into consideration the principles of law laid down in this regard. Accordingly, appeals are allowed by way of remand to the adjudicating authority to decide the issue afresh taking into consideration the evidences on record and that would produced by the appellant during the *de novo* proceedings. All issues are kept open. Acceding to the prayer of Revenue, it is directed that the de novo proceeding be completed within four months from the date of communication of the order. The appellant is directed to co-operate and avoid seeking unwarranted adjournments.

8. Appeals are allowed by way of remand.

(Operative portion of the order pronounced in Court)

**(C.J. Mathew)**
**Member (Technical)**

**(Dr. D.M. Misra)**
**Member (Judicial)**

Sinha