

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

APPEAL NO: ST/90033, 90040/2014

[Arising out of Order -in-Original No: 60-61/ST-II/RS/2014 dated 26/08/2014 passed by the Commissioner of Service Tax -II Mumbai.]

Toyo Engineering India Ltd

... Appellant

versus

Commissioner of Service Tax
Mumbai-II

...Respondent

Appearance:

Shri S.S. Gupta, Chartered Account, for appellant

Shri, M.P. Damle, Assistant Commissioner (AR) for respondent

CORAM:

Hon'ble Dr. D.M. Misra, Member (Judicial)

Hon'ble C J Mathew, Member (Technical)

Date of hearing: 06/12/2018

Date of decision: 06/12/2018

ORDER NO: A/88260-88261/2018

Per: Dr. D. M. Misra

Mumbai.

2. Briefly stated the facts of the case that the appellant is engaged in providing taxable services namely Erection , Commissioning , Installation Service & Consulting Engineer Service etc. During the relevant period 2006 -20 07 to 2011 -2012 , they have availed Cenvat credit on various input services and utilized the same for discharging Service tax liability from their offices premises at Kanjurmarg . Alleging that the input services were consumed at their branch offices situated at Ghatkop ar, Vikroli & New Delhi in providing the output services , but since , these offices were not registered with service tax department , the Cenvat credit availed on the input services at their Kanjurmarg office was proposed to be recovered. Consequently, two show cause notices were issued for recovery of the inadmissible Cenvat credit of Rs. 3,13,00,953/ - alongwith interest and penalty. On adjudication, their demand was confirmed with interest and penalty.

3. At the outset, the Ld. Chartered Accountant S .S. Gupta for the appellant submits that during the relevant period at their Kanjurmarg office centralized billing and accounting system for all their offices were undertaken and the said premises was registered

Erection and Commissioning Services for which invoice was raised from their Head Office and appropriate service tax also was paid from Head Office. He has submitted that in providing taxable services from the branch offices, certain input services were used on which they availed credit at their Kanjurmarg office. It is his contention that since they were having centralized accounting system at their Kanjurmarg office and all payments were made to the service providers from the said office, merely because the branch offices were not registered, Cenvat Credit of service tax paid on input services, used in providing taxable output services from the branch offices, cannot be denied to them. The Chartered Accountant submits that service tax paid on the invoices raised from the Head Office, for the services rendered from the branch offices, indicates the project/ job code allotted and a unique code is attached to the branch office, from where the services rendered, could be identified. It is his contention that for the entire quantum of credit availed, it can be co-related with the services rendered from the branch office on which service tax has been paid from the Head Office. It is his contention that, therefore, merely because the branch offices are not registered with Central Excise Department, credit cannot be denied to them. In support, he has

Bangalore [2012 (27) S.T.R. 134 (Kar.)] then *Manipal Advertising Services Pvt. Ltd.* Vs. *Commissioner of Central Excise, Mangalore [2010 (19) S.T.R. 506 (Tri. -Bang.)]*. Further, he submits that they may be given an opportunity to establish before the Learned Commissioner that the Cenvat credit has been rightly availed for the services provided from the branch offices for which taxable invoices are issued from the Kanjurmarg Office where the centralized billing & accounting system is maintained.

2. Per contra, Ld. AR for the Revenue reiterated the finding of the Ld. Commissioner. He submits that before the Ld. Commissioner they did not produce any evidence in establishing the fact that for the services rendered from the branch offices, applicable service tax was paid from the Head Office at Kanjurmarg by issuing invoices from there. He has no objection in remanding the matter to the adjudicating authority for verification of the correctness of the credit availed on the input services used at their branch offices, in relation to taxable services provided from branch offices by the appellant.

3. Heard both sides and perused the records.

4. The short issue involved in the present appeal is whether the

Ghatkopar & Delhi. The Revenue proposed to deny the Cenvat credit availed and utilized at their Head Office at Kanjurmarg, alleging that the branch offices were not registered. We find that the appellant at the relevant time had centralized accounting system and billing system at their Head Office at Kanjurmarg. The Ld. Chartered Accountant also on a sample basis co-related between the service tax invoice raised at their Kanjurmarg office where the services were rendered at their branch office by referring to the general ledger and other relevant documents mentioning the project code and the services rendered. *Prima facie* from these documents it is clear that the taxable services were provided from the branch offices and the input services on which credit have been availed at their Kanjurmarg offices had been utilized in providing the taxable output service. However, detailed verification of records is necessary. Further, keeping in view the precedent on the subject, we are of the opinion that merely because the branch offices were not registered, hence, Cenvat credit availed on input services used for providing output services cannot be denied to the appellant when the centralized billing and accounting system was undertaken from the Kanjurmarg office. In the result, the impugned order is set aside and the appeal is allowed by way of remand to the

5. Appeal is allowed by way of remand.

(Pronounced in Court)

(C J Mathew)
Member (Technical)
**/sb*

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