

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.3310 of 2015

Date of Order: 24.02.2015

Bharat Sanchar Nigam Ltd.

..Petitioner

Versus

**The Custom, Excise & Service Tax Appellate Tribunal,
Principal Bench, R.K.Puram, New Delhi and others**

..Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

**Present: Mr. Anil Rathee, Advocate,
for the petitioner.**

RAJIVE BHALLA, J (Oral)

Bharat Sanchar Nigam Limited is before us, challenging order dated 09.12.2014 (Annexure P-7), passed by the Custom, Excise & Service Tax Appellate Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'the Tribunal'), directing the petitioner to pre-deposit Rs.10,00,000/-.

Counsel for the petitioner submits that the premise upon which the Tribunal has directed the petitioner to pre-deposit Rs.10,00,000/- is legally flawed as, with effect from 01.04.2008, the petitioner was entitled to utilise the entire amount of Cenvat Credit. The finding recorded by the Tribunal that the petitioner is not entitled to use the entire Cenvat Credit prior to 01.04.2008 is legally incorrect and may, therefore, be set aside.

We have heard counsel for the petitioner, perused the paper book including the impugned order but are not inclined to interfere with the discretion exercised by the Tribunal while directing the petitioner to pre-

deposit Rs.10,00,000/- of the tax, penalty and interest out of the total demand of Rs.20,00,000/-. The Tribunal has considered Rule 6(3)(C) of the Cenvat Credit Rules, 2004 and only after recording a prima-facie opinion, that the petitioner utilised more than the admissible Cenvat credit, has passed an order directing the appellant to pre-deposit only Rs.10,00,000/- out of the total demand of Rs.20,00,000/- with equal penalty and interest. In the absence of any error of law or of jurisdiction in the impugned order, we find no reason to entertain the appeal and dismiss the same, accordingly.

A fortnight's time is granted to the petitioner from today to deposit the amount of Rs.10,00,000/-.

(RAJIVE BHALLA)
JUDGE

February 24, 2015
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(AMOL RATTAN SINGH)
JUDGE