HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CEA Nos.175 and 179 of 2017

Date:16.11.2017

CEA No.175 of 2017

Between:

The Commissioner of Central Tax,
Hyderabad.

..... Appellant

And:

M/s ITC Ltd.,
Bhadrachalam.

....Respondent

AND

CEA No.179 of 2017

Between:

The Commissioner of Customs, Central
Excise and Service Tax, Tirupati.

..... Appellant

And:

M/s Zuari Cements Ltd.,
Yerraguntla, Kadapa District.

....Respondent

Counsel for the appellants: Mrs. Sundari R.Pisupati

Senior Standing Counsel for Customs, Central Excise and Service Tax

The Court made the following:

COMMON JUDGMENT: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

Though the respondents-assessees in these appeals are different, as the issues arising in these appeals are identical, they are heard and being disposed of together.

In CEA.No.175 of 2017, the following substantial questions of law have been raised:

> "1. Whether the CESTAT is correct in allowing the appeal filed by the respondents, by placing reliance on the High Court's decision when the Department's review petition against the said High Court order is still pending?
> 2. Whether the CESTAT is justified in allowing the appeal, when input services on which credit has been availed are not covered under the CENVAT Credit Rules, 2004 and can in no way be connected to the manufacture of their final product (paper), even by stretching the meaning of the word 'indirectly' so as to cover services like maintenance of colony and plantation activity?"

In CEA.No.179 of 2017, the following substantial questions of law have been raised:

> "1. Whether the construction of residential quarters for staff members can be said to have nexus with manufacture or sale of final product, or whether only such input service which are integrally connected to the process are qualified to fit in the ambit of input service under Rule-2(1) of CENVAT Credit Rules, 2004?
> 2. Whether the Tribunal was correct in dismissing the Department's appeal without taking into

consideration the relevant judicial decisions put forward in this matter?"

At the hearing, Mrs. Sundari R.Pisupati, learned Senior Standing Counsel for Customs, Central Excise and Service Tax, submitted that the Customs, Excise and Service Tax Appellate Tribunal, Regional Bench, Hyderabad (for short 'the Tribunal') has allowed the appeals filed by the respondents-assessees following the judgment of this Court in ***Commissioner of Cus. and C. Ex., Hyderabad-III Vs. ITC Limited***[1]. She further submitted that the Review Petition-CEAMP.No.141 of 2012 filed by the Revenue seeking review of the afore-mentioned judgment was dismissed by this Court on 19.9.2017.

As the judgment of this Court, based on which the orders impugned in these appeals were passed by the Tribunal, has attained finality, these appeals are also dismissed following the aforesaid judgment.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE CHALLA KODANDA RAM

16th November 2017
DR

[1] 2013 (32) S.T.R.288 (A.P)