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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ SERTA 12/2024 & CM APPL. 24463/2024 (Stay)

THE PRINCIPAL COMMISSIONER CGST DELHI III .....Appellant

Through: Mr. Aditya Singla, SSC along with Mr. Ritwik Saha, Mr. Raghav Bakshi and Mr. Umar Mishra, Advs.

versus

MS CHETAK LOGISTICS LIMITED .....Respondent

Through: Mr. Kunal Kapoor and Ms. Purvi Sinha, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

O R D E R

% **09.09.2024**

1. The Commissioner impugns the final judgment handed down by the **Customs Excise and Service Tax Appellate Tribunal**[1] dated 10 October 2023. We note that the two principal questions which appear to have been raised were firstly, with regard to the applicability of the exemption provisions under the Notification 30/2012 dated 20 June 2012 and secondly, the issues pertaining to CENVAT credit.

2. While dealing with the first aspect, the CESTAT has taken note of the findings which had come to be rendered by the Commissioner as would be apparent from reading of paragraph 8 and which reads as follows:-

[1] CESTAT

"8. The Commissioner also examined the tax payment certificate issued by the "body corporates" clients of the respondent showing the service tax amount paid by them during the financial years 2013-14 and 2014-15. After examination of the same, the Commissioner observed that all the aforesaid clients were covered under the category of "body corporates" as mentioned in clause (e) of the Notification dated 20.06.2012 and the respondent was not liable to pay service tax on the GTA services rendered to these clients. The Commissioner ultimately held that the demand raised under the category of GTA services in the show cause notices were not sustainable and dropped the said demand made in the first show cause notice and the second show cause notice."

3. In paragraph 9 of the impugned order, the issue of CENVAT credit has been answered in the following terms:-

"9. The Commissioner thereafter examined whether the CENVAT credit availed by the respondent for the period 2013-14 and 2014-15 was admissible to the respondent or not. In this connection, after examination of the relevant Rules and the facts stated by the respondent, the Commissioner observed as follows:

"5.2.5 I find that the during adjudication proceedings, Noticee have submitted the details and sample copies of invoices on the strength of which they availed CENVAT credit during FY 2013-14 and 2014-15. They availed input credit on Warehousing Services, Air Transportation and Rail Transportation services which is in accordance with Cenvat Credit Rules, 2004 and not related with Goods Transport Operator by Road services. **Thus, CENVAT credit is admissible to them and it can be utilized against the payment of service tax.**

Noticee have submitted the details of CENVAT credit availed and utilized by them for payment of service tax during FY 2013-14 and 2014-15, which is approximate to the value shown in the service tax return. A detailed chart of the value of CENVAT credit submitted by the Noticee viz. a .viz their respective value as shown in the Service Tax Return is as given below:

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Accordingly, I hold that during FY 2013-14 and FY 2014-15, the CENVAT credit availed by the Noticee is admissible to them"

(emphasis supplied)"

4. Although pursuant to the last order, Mr. Singla has placed the memo of appeal which was filed before the CESTAT for our

consideration, we find that the appeal failed to raise any dispute in respect of the findings which were rendered by the Commissioner with regard to the applicability of Clause (e) of the Notification 30/2012 dated 20 June 2012.

5. Even before us, the appeal fails to place on the record any material which may have established that the findings returned with respect to the provision of services to body corporates was either arbitrary or perverse.

6. It is in the aforesaid light that the CESTAT has been constrained to observe as follows:-

> "14. In the ground of appeal only general averments have been made without pointing out any specific perversity in the impugned order. The findings recorded by the Commissioner are based on the evidence produced by the respondent. Learned authorized representative appearing for the department has also not been able to point out any specific error that may have been committed by the Commissioner while passing the impugned order."

7. In view of the aforesaid, we find no ground to entertain the instant appeal. The same fails and shall stand dismissed.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

SEPTEMBER 09, 2024 /RW