ORDER OD-4

CEXA/52/2024
IA NO:GA/2/2024

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (CENTRAL EXCISE)
ORIGINAL SIDE

COMMISSIONER OF SERVICE TAX KOLKATA
VS
M/S. VODAFONE ESSAR SOUTH LIMITED KOLKATA

BEFORE:
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
AND
THE HON'BLE JUSTICE UDAY KUMAR
Date : 26th November, 2025.

<u>*Appearance:*</u>

Mr. Bhaskar Prosad Banerjee, Adv.
Mr. Abhradip Maity, Adv.
…for Appellant
Mr. Shovit Betal, Adv.
Mr.Indranil Banerjee, Adv.
…for Respondents

The Court: Heard learned counsels for the parties.

The facts of the case are that the assessee is providing telephonic services and availing CENVAT credit on inputs used for fabrication of tower shelter, which were ultimately used for providing telephonic services.

Learned counsel for the revenue submits that the inputs used by the assessee for the fabrication of the tower are not entitled to CENVAT credit as the towers are considered "immovable property" and the manufacturer is not entitled to take benefit of CENVAT credit on the said input used for fabrication of tower shelter, which are embedded to earth.

This Court finds that the above issue has been settled by the Hon'ble Supreme Court in *Bharti Airtel Ltd. vs. Commissioner of Central Excise, Pune, reported in 2024 SCC Online SC 3374, wherein it was held that "tower shelter" are goods..*

It is also noticed by this Court that the impugned order of the Tribunal pertains only to the issue of extended period of limitation which could not have been invoked by the revenue.

As no substantial question of law is involved in the above issue, the appeal is dismissed. The connected application (IA NO:GA/2/2024) also stands dismissed.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

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