

**In The Customs, Excise & Service Tax Appellate Tribunal  
West Zonal Bench At Ahmedabad**

**Appeal No : E/4/2012**

**(Arising out of OIA-SA/167/VAPI/2011 Dated 01/11/2011 passed by Commissioner (Appeals) of Central Excise, Customs and Service Tax-VAPI )**

**Prince Swr Systems Pvt Limited : Appellant (s)**

**Versus**

**Commissioners of Central Excise, Customs and Service Tax-VAPI : Respondent (s)**

Represented by:

For Appellant (s) : Shri S.J. Vyas, Advocate

For Respondent (s): Shri T. K. Sikdar, Authorised Representative

For approval and signature :

Mr. P.K. Das, Hon'ble Member (Judicial)

1. Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?

No

2. Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?

No

3. Whether their Lordships wish to see the fair copy of the Order?

Seen

4. Whether Order is to be circulated to the Departmental authorities?

Yes

CORAM :

Mr. P.K. Das, Hon'ble Member (Judicial)

**Date of Hearing / Decision : 23.02.2016**

**ORDER No. A/10119/ 2016 Dated 23.02.2016**

**Per : Mr.P.K. Das,**

Heard both sides and perused the case records.

2. The appellant availed CENVAT credit during the period from June 2009 to March 2010 on the service tax paid on the basis of the invoices issued in the name of their head office. The Learned Advocate submits that the appellant is only manufacturing unit of the head office. This fact was not disputed by the Revenue. He submits that the issue is covered by the decision of the Hon'ble High Court and Tribunal as under:-

(a) Doshion Limited. Vs. Commissioner of Central Excise, Ahmedabad 2013 (288) E.L.T. 291 (Tri-Ahmd.)

(b) Commissioner of Central Excise vs. Chandresh C Shah 2014 (36) S.T.R. 972 (Guj.).

(c) Commissioner of Central Excise vs. Chandresh C. Shah 2015 (38) S.T.R. J972 (SC)

(d) Commissioner of Central Excise, Vapi vs. Samita Conductors Limited. 2012 (278) E.L.T. 492 (Tri.-Ahmd.).

(e) Durfeprit Asea Pvt. Limited. Vs. Commissioner of Central Excise, Guntur 2010 (258) E.L.T. 414 (Tri.-Bang.).

3. I find that the on identical situation, the Tribunal in the case of Commissioner of Central Excise, Vapi vs. Samita Conductors Limited. (supra), rejected the appeal filed by the Revenue. The relevant portion of the said decision is reproduced below:-

3. I have considered the submissions. I find that the decision in the case of Jindal Photo Limited was rendered in exactly similar circumstances. In that case also the registration was not taken by the head office as input service distributor. Further, I am unable to appreciate the stand taken by the Revenue that this decision is not applicable in view of the judgment in the case of Jindal Photo Limited deals with modvat/cenvat credit of goods and in this case the question involved is services. This itself is a wrong submission since in Jindal Photo Limited case also the ratio involved was cenvat credit on input services only. Further, it has also been submitted that receipt of goods is verifiable but not the services. In this connection it would be worthwhile to see the provisions to provisos of sub Rule 2 of Rule 9 of Cenvat Credit Rules, 2004. According to the said proviso, if the invoices do not contain all the particulars but contains certain details specified therein, the Assistant Commissioner can allow the credit on the basis of such defective documents, if the goods or services covered by such documents, have been received and accounted for in the books of accounts of the receiver. The submissions made by the appellant in this case is contrary to the provisions of law which require the Assistant Commissioner/Dy. Commissioner to verify whether input services have been received or not. This amounts to a submission that while formulating the Rules, the Government did not consider the practicability or otherwise of verification of receipt of input services. It is the duty of the executives to implement the provisions of rules and if there is any problem in implementing the rules, the rules have to be got amended but certainly the submissions like this not called for. In view of the fact that the ratio is covered by the decision of this Tribunal and I do not find anything wrong with the decision of the Commissioner in following the same and I also find the submission that why this decision is not applicable are not at all correct, I find no merit in the appeal filed by the Revenue and accordingly reject the same.

4. In view of the above, I do not find any reason to deny the CENVAT credit, as the appellant is the only manufacturing unit of the head office. Accordingly, the impugned order is set-aside. The appeal filed by the appellant is allowed.

(Dictated and pronounced in the Court)

(P.K. Das)

Member (Judicial)