(2011) 02 P&H CK 0307

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 1507 of 2011

Bharat Sanchar Nigam Limited (Mobile) APPELLANT

Vs

Commissioner of Central Excise and Another RESPONDENT

Date of Decision : 04-02-2011

Acts Referred:

Citation : (2011) 184 ECR 213 : (2011) 22 STR 385

Hon'ble Judges : Ajay Kumar Mittal, J;Adarsh Kumar Goel, J

Bench : Division Bench

Judgement

Adarsh Kumar Goel, J.—This petition has been filed for quashing of order of the Customs Excise and Service Tax Appellate Tribunal, Respondent No. 2, dated 29.10.2010, rejecting the plea for waiver of demand on account of wrongful availment of Service Tax Credit and CENVAT Credit, as per CENVAT Credit Rules, 2004 (for short, "the Rules") framed under the Central Excise Act, 1944.

2. Case of the Petitioner is that its services are taxable under the heading ''Telecommunication Service'' under the provisions of the Finance Act, 1994. As per the rules, it can avail of CENVAT Credit on the inputs on which excise duty has been paid. The Petitioner purchased inputs for construction of towers for providing telecommunication services and claimed CENVAT Credit on the said inputs which has been declined, against which the Petitioner has approached the Tribunal. According to the Petitioner, it was fully justified in claiming CENVAT Credit on inputs and there was no justification for requiring the same to be reversed. In a similar matter, Ahmedabad Bench of the Tribunal in its order in 2009 (16) S.T.R. 80 granted complete waiver following identical order of the Bombay Bench referred to therein.

3. Learned Counsel for the Respondents does not dispute that Bombay Bench and Ahmedabad Bench of the Tribunal granted complete waiver in identical circumstances.

4. In view of above, without expressing any opinion on merits, we direct grant of

complete waiver to the Petitioner for the purpose of hearing of its appeal.

The petition is disposed of.

