

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA**

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No. 76598 of 2016

(Arising out of Order-in-Original No.03&04/COMMR./LTU/KOL/2016-17 dated 22/06/2016 passed by Commissioner of Central Excise and Service Tax, Large Tax Payer Unit, Kolkata)

M/s. United Bank of India

(Corporate Accounts Department,
11, Hemanta Basu Sarani, Kolkata-700001)

Appellant

VERSUS

Commr. of Central Excise and Service Tax, Large Tax Payer Unit,
(180, Shantipally, Rajdanga Main Road, Kolkata-700107)

Respondent

APPEARANCE :

Mr. Tarun Chatterjee, Advocate & Mr. Raju Mondal, Advocate for the Appellant

Mr. S. K. Dikshit, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)

HON'BLE MR. RAJEEV TANDON, MEMBER (TECHNICAL)

FINAL ORDER No. 76958/2025

Date of Hearing : 16th July 2025

Date of Decision : 16th July 2025

PER R. MURALIDHAR

The appellant has taken the Cenvat Credit for the re-insurance taken by them on which the service provider has charged Service Tax. On the ground that the same is not an input service in terms of Rule 2(I) of Cenvat Credit Rules, 2004, the Show Cause Notices were issued to recover the Cenvat Credit so taken. After due process, the Adjudicating Authority confirmed the demand along with interest and penalty. Being aggrieved, the appellant is before the Tribunal.

2. The Learned Counsel appearing on behalf of the appellant submits that the issue is no more *res-integra*. The issue stands decided by the Larger Bench in the case of **South Indian Bank Vs. Commr. of Customs, Central Excise & Service Tax, Calicut-2020 (41) G.S.T.L. 609 (Tri.-LB)**. Subsequently, the Co-ordinate Bench of Chennai in the case of **Tamil Nadu State Apex Co-Op. Bank Vs. Commr. of GST & C. Ex., Chennai-2021 (50) G.S.T.L. 437 (Tri.-**

Chennai) has held that the assessee would be eligible for Cenvat Credit. Based on these submissions, he prays that the appeal may be allowed.

3. The Learned AR reiterates the findings of the lower authority and justifies the confirmed demand.

4. Heard both sides and perused the appeal papers and the cited case laws.

5. We find that the issue is no more *res integra*. The Larger Bench of the Tribunal in the case of **South Indian Bank Vs. Commr. of Customs, C. Ex. & ST, Calicut**, cited supra has held as under:-

65. The reference is, accordingly, answered in the following terms :

“The insurance service provided by the Deposit Insurance Corporation to the banks is an “input service” and Cenvat credit of service tax paid for this service received by the banks from the Deposit Insurance Corporation can be availed by the banks for rendering ‘output services’.”

6. Subsequently, when the matter reached the Chennai Tribunal in the case of **Tamil Nadu State Apex Co-Op. Bank Vs. Commr. of GST & C. Ex., Chennai**, cited supra, the Revenue in case of **Bank of America V. Commissioner-2021 (44) G.S.T.L. J62** took a different view and had sent a request for Larger Bench to be constituted by the President. However, the Chennai Bench after going through the factual details has held as under:-

6. The Learned AR has relied upon the decision of CESTAT Bench at Mumbai in the case of M/s. Bank of America (supra). The very same issue has again been referred to the Hon'ble President to resolve the issue by constituting a Larger Bench. The reason for such reference and doubting of the order rendered by the Larger Bench is that the decision rendered by the Hon'ble Apex Court in Dilip Kumar & Co. (supra) was not considered by the Larger Bench and therefore the Larger Bench decision is per incuriam. When the issue has been decided by Larger Bench, judicial discipline binds us to follow the same. Further, the judgment in Dilip Kumar & Co. (supra) is with regard to interpretation of exemption notifications and would not be

relevant for application to the issue under consideration which is the eligibility of Cenvat credit. Application of judicial discipline is necessary to give uniformity and certainty decisions. Thus, we are bound to follow the decision of the Larger Bench which is placed before us. Following the same, we are of the opinion that the impugned order cannot sustain and requires to be set aside, which we hereby do.

7. Considering the ratio laid down in the above two cases, we set aside the impugned order and allow the appeal.

(Dictated and pronounced in the open court.)

Sd/-
(Rajeev Tandon)
Member (Technical)

Sd/-
(R. Muralidhar)
Member (Judicial)

Pooja