

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

REGIONAL BENCH- COURT NO.3

**Service Tax Appeal No.10370 of 2020**

(Arising out of OIA-VAD-EXCUS-001-APP-524-2019-20 dated 28/01/2020 passed by Commissioner ( Appeals ) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

**GURUKRUPA ENGINEERING COMPANY**

**.....Appellant**

314, Laukesh Avenue, Opp. Hanuman Temple, Deluxe Char Rasta, Nizampura  
Vadodara, Gujarat

*VERSUS*

**C.C.E. & S.T.-VADODARA-I**

**.....Respondent**

1st Floor...Central Excise Building,  
Race Course Circle,  
Vadodara, Gujarat-390007

**APPEARANCE:**

Shri Ajay Banerjee, Advocate for the Appellant  
Shri R P Parekh, Superintendent (AR) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR**  
**Final Order No. A/ 10991 /2022**

DATE OF HEARING: 16.08.2022  
DATE OF DECISION:16.08.2022

**RAMESH NAIR**

The brief facts of the case are that the appellant have availed cenvat credit of Rs.37,20,580/- on the invoice issued by M/s. Shree Enterprises-Kutch. On the investigation, it was found that the so called service provider M/s. Shree Enterprises have not issued the invoice, on the basis of which the appellant have taken the credit therefore, the credit was denied to the appellant.

02. Shri Ajay Banerjee, learned counsel appearing on behalf of the appellant submits that the appellant have taken credit on the basis of invoices issued by the service provider and against such invoice, the payment of principal amount along with service tax was made to the service provider therefore, on their part there is no mala fide or any violation of Cenvat Credit Rules therefore, credit could not have been denied on whatsoever offence has been committed by the service provider.

2.1 He submits that the entire credit was denied on the basis of the statements given by the service provider wherein, he stated that they have not issued any invoice. He submits that his request for cross examination of

the person given statement has not been accepted by the adjudicating authority therefore, he request that the matter may be remanded and the adjudicating authority may be directed to provide the cross examination.

03. Shri R P Parekh, learned Superintendent (AR) appearing on behalf of the revenue reiterates the finding of the impugned order. He submits that it is fact on record that M/s. Shree Enterprises admitted that they have not issued any invoice. In such case, the cenvat credit was rightly denied by the adjudicating authority.

04. I have carefully considered the submissions made by both the sides and perused the records. I find that the appellant have taken the credit on the strength of the invoice issued by the service provider M/s. Shree Enterprises. It is also fact on record that the appellant have made the payment in respect of such invoice to the service provider. In this fact, it is incumbent on the adjudicating authority to provide cross examination of issuer of the invoices. For not allowing the cross examination amounted to grave violation of the principles of natural justice.

05. Accordingly, I set aside the impugned order and remand the matter to the adjudicating authority for passing a fresh order after allowing the cross examination. The appellant is also directed to produce all the records in connection with the transaction of service from service provider to the appellant. All the issues are kept open. Appeal is allowed by way of remand to the adjudicating authority.

(Dictated & Pronounced in the open court)

**(RAMESH NAIR)**  
**MEMBER (JUDICIAL)**