

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Central Excise Appeal No.52/2019

Principal Commissioner Of Central Goods And Service Tax

----Appellant

Versus

Honda Motorcycle And Scooter India Private Limited

----Respondent

For Appellant(s) : Mr. Siddharth Ranka, Adv.

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

Order

18/07/2019

Admit.

Following two questions of law arise for consideration in this appeal:-

- "1. Did CESTAT fall into error in holding that the cenvat credit availed by the assessee on account of commission received by agent of print media could be allowed in the circumstances of the case ?
2. Did CESTAT err in law in holding that cenvat credit availed by the assessee on account of servicing at authorized service station, provided by the dealer, could be allowed ?"

So far as the third question with respect to the cenvat credit by the assessee on account of civil infrastructure services is concerned, in opinion of this Court, does not arise.

The facts of this case are that the M/s Honda Cars limited constructed civil infrastructure and leased them to the assessee. This part is not denied. What is question is with respect to construction of a road, boundary wall, horticulture, power supply and water supply to such service centres. The Revenue contends that availing of credit in respect of this service was thus impermissible.

This Court is of the opinion that once the availing of credit for leasing infrastructure is conceded-inasmuch as such services are *per se* taxable, (renting of premises) the fact that roads has to be constructed and other infrastructure has to be credited for effective and full use of the essential infrastructure, could not have singled out dis-allowances.

Issue notice to the respondent, returnable on 11.09.2019.

(SANJEEV PRAKASH SHARMA),J

(S. RAVINDRA BHAT),CJ

Ramesh Vaishnav/Fateh Raj Bohra

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