

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 60669 of 2018

[Arising out of Order-in-Original No. 20-21/ST/COMMR/VMJ/RTK/2017-18 dated 21.02.2018 passed by the Commissioner of CGST, Rohtak]

M/s Indus Towers Ltd

.....Appellant

Building No. 10, Tower A, 4th Floor,
DLF Cyber City, Gurugram, Haryana 122002

VERSUS

**Commissioner of Central Goods & Service
Tax, Gurugram**

.....Respondent

GST Bhawan, Plot No. 36-37, Sector 32,
Gurugram, Haryana 122001

WITH

Service Tax Appeal No. 60670 of 2018

[Arising out of Order-in-Original No. 18-19/ST/COMMR/VMJ/RTK/2017-18 dated 21.02.2018 passed by the Commissioner of CGST, Rohtak]

M/s Indus Towers Ltd

.....Appellant

Building No. 10, Tower A, 4th Floor,
DLF Cyber City, Gurugram, Haryana 122002

VERSUS

**Commissioner of Central Goods & Service
Tax, Gurugram**

.....Respondent

GST Bhawan, Plot No. 36-37, Sector 32,
Gurugram, Haryana 122001

AND

Service Tax Appeal No. 60865 of 2018

[Arising out of Order-in-Original No. 18-19/ST/COMMR/VMJ/RTK/2017-18 dated 21.02.2018 passed by the Commissioner of CGST, Rohtak]

**Commissioner of Central Goods & Service
Tax, Gurugram**

.....Appellant

GST Bhawan, Plot No. 36-37, Sector 32,
Gurugram, Haryana 122001

VERSUS

M/s Indus Towers Ltd

.....Respondent

Building No. 10, Tower A, 4th Floor,
DLF Cyber City, Gurugram, Haryana 122002

WITH

Service Tax Appeal No. 60866 of 2018

[Arising out of Order-in-Original No. 20-21/ST/COMMR/VMJ/RTK/2017-18 dated 21.02.2018 passed by the Commissioner of CGST, Rohtak]

Commissioner of Central Goods & Service Tax, GurugramAppellant

GST Bhawan, Plot No. 36-37, Sector 32,
Gurugram, Haryana 122001

VERSUS

M/s Indus Towers LtdRespondent

Building No. 10, Tower A, 4th Floor,
DLF Cyber City, Gurugram, Haryana 122002

APPEARANCE:

Ms. Krati Singh and Ms. Khushbu Sood, Advocates for the Assessee

Mr. Siddharth Jaiswal and Ms. Amita Gupta, Authorized Representatives for
the Revenue

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60245-60248/2026

DATE OF HEARING: 27.02.2026

DATE OF DECISION: 17.03.2026

S. S. GARG :

These four appeals, i.e. ST/60669/2018 & ST/60670/2018 filed by the Assessee and ST/60865/2018 & ST/60866/2018 filed by the Revenue, are directed against two impugned OIOs, both dated 21.02.2018, passed by the Commissioner of CGST, Rohtak. All four

appeals are taken up together for discussion and disposal by this common order. Details of appeals are as under in a tabular form:

S. N.	Appeal No.	SCN	Period	Amount in dispute (Rs.)	OIO	Demand	Issue
1.	ST/60669/2018 filed by the Assesseees	02/ST/GGN/2016-17 dt. 07.04.2016 & 22/ST/GGN/2017-18 dt, 29.05.2017	2014-15 and 2015-16	5,88,25,916/- with penalty of 40,00,000/-	20-21/ST /COMMR/ VMJ/RTK/ 2017-18 dated 21.02.2018	Demand confirmed	Denial of Cenvat Credit availed with respect to capital goods pertaining to towers & shelters
2.	ST/60670/2018 filed by the Assesseees	01/ST/GGN/2016-17 dt. 07.04.2016 & 19/ST/GGN/2017-18 dt, 29.05.2017		3,86,84,457/- with penalty of 40,00,000/-	18-19/ST /COMMR/ VMJ/RTK/ 2017-18 dated 21.02.2018		Denial of Cenvat Credit availed with respect to input services pertaining to towers & shelters
3.	ST/60865/2018 filed by the Revenue	01/ST/GGN/2016-17 dt. 07.04.2016 & 19/ST/GGN/2017-18 dt, 29.05.2017		3,01,87,587/-	18-19/ST /COMMR/ VMJ/RTK/ 2017-18 dated 21.02.2018	Demand dropped	Denial of Cenvat Credit availed with respect to input services pertaining to towers & shelters
4.	ST/60866/2018 filed by the Revenue	02/ST/GGN/2016-17 dt. 07.04.2016 & 22/ST/GGN/2017-18 dt, 29.05.2017		12,73,12,238/-	20-21/ST /COMMR/ VMJ/RTK/ 2017-18 dated 21.02.2018		Denial of Cenvat Credit availed with respect to inputs pertaining to towers & shelters

2. Briefly stated facts of the present case are that the Assesseees, M/s Indus Towers Ltd, are engaged in providing passive infrastructure support and related operation and maintenance services to various telecommunication operators on a shared basis in terms of a master service agreement. During the relevant period, the Assesseees procured various inputs, capital goods and input services, and availed CENVAT Credit on capital goods, inputs and input services under Cenvat Credit Rules, 2004. Audit of the Assesseees' records was conducted on 19.02.2009 & 20.02.2009 wherein it was observed that the Assesseees had wrongly availed CENVAT Credit in respect of

capital goods, inputs and input services. On this allegation, multiple show cause notices were issued to the Assessee proposing to deny CENVAT Credit on such capital goods, inputs and input services. The said show cause notices were adjudicated by the Adjudicating Authority vide two OIOs, both dated 21.02.2018 vide which certain demands were upheld and certain demands were dropped. To the extent that demands were confirmed against the Assessee in OIOs, the Assessee has preferred two appeals viz. ST/60669/2018 & ST/60670/2018 and to the extent of demands dropped in OIOs, the Revenue has also preferred two appeal viz. ST/60865/2018 & ST/60866/2018 before us.

3. Heard both parties and perused the material on record.

4. The learned Counsel appearing for the Assessee submits that the impugned OIOs are not sustainable in law as the same have been passed without properly appreciating the facts & the law and the binding judicial precedents on identical issue.

4.1 The learned Counsel further submits that for setting up passive infrastructure facility, the Assessee procure certain 'inputs' such as tower, tower's parts etc; the Assessee also use green shelter, pre-fabricated shelter, DG fans etc; and these items fall under Chapter 85 of the First Schedule to Central Excise Tariff Act, 1985 and accordingly qualify as 'capital goods' in terms of Rule 2(a) of the Cenvat Credit Rules. She further submits that even if, the Revenue asserts that certain items do not qualify as 'capital goods, then the same nevertheless qualify as 'inputs' under Rule 2(k) of the Cenvat

Credit Rules which expressly provides that all goods used for providing output services shall qualify as inputs. She further submits that cellular mobile operators fix their antenna, BTS and other active equipment on such passive infrastructure in order to provide telecommunication services; accordingly, said inputs and capital goods are integrally used for providing output services and therefore, the Assesseees are entitled to avail CENVAT Credit. She further submits that the issue of admissibility of CENVAT Credit on the inputs and capital goods is no more *res integra* and has already been settled by the Hon'ble Apex Court in favour of the Assesseees in the case of ***M/s Bharti Airtel Ltd vs. CCE, Pune [2024 (11) TMI 1042 - SC]***, wherein the Hon'ble Supreme Court has held that towers and pre-fabricated buildings do not constitute "immovable property" but are "goods" within the meaning of Cenvat Credit Rules. The Hon'ble Supreme Court has also observed that such telecom towers and pre-fabricated shelters are not permanently embedded in the earth but are merely bolted to the ground for ensuring stability and can be dismantled, relocated and reassembled without substantial damage. The Hon'ble Supreme Court has also held that although towers and shelters are not themselves devices for transmission or reception of signals, they are indispensable for the functioning of antennas which transmit and receive radio signals and consequently, such infrastructure is essential for rendering the output service of mobile telecommunications and hence, their use in providing output services, qualifies them for credit under the Cenvat Credit Rules. She further submits that the Jurisdictional High Court of Punjab & Haryana has

also upheld the admissibility of CENVAT Credit in the Assessee's own case titled as **Commr of CGST, Gurugram vs. Bharti Infratel Ltd** [vide **Order dated 27.02.2025 in STA-1-2021, STA-2-2021, STA-3-2021, STA-7-2021, STA-8-2021, STA-10-2021, STA-1-2022 & STA-10-2022**]. She further submits that this Tribunal also, in the Assessee's own cases titled as **M/s Indus Towers Ltd vs. CCE & ST, Delhi-IV [2020 (6) TMI 493 CESTAT Chandigarh]** and **M/s Indus Towers Ltd vs. CCE & ST, Delhi-IV [2019 (5) TMI 1988 CESTAT Chandigarh]**, has held that the Assessee is entitled to avail CENVAT Credit on items such as towers, shelter parts etc being inputs and capital goods used for providing output services. She further submits that the said legal position has also been consistently followed by the various High Courts and Tribunal in the following cases:

- **Bharti Airtel Ltd vs. CCE, Guwahati – 2025 (2) TMI 684 – Guwahati HC**
- **B.S.N.L. vs. CCE, Chhattisgarh – 2025 (1) TMI 66 – Chhattisgarh HC**
- **Vodafone Idea Ltd vs. CST, Mumbai-III – 2025 (7) TMI 702 – CESTAT Mumbai**
- **B.S.N.L. vs. Commr of Central Tax, Bengaluru East – 2025 (2) TMI 214 – CESTAT Bangalore**

She prays that in view of the above cited decisions, the issue regarding eligibility of CENVAT Credit on inputs and capital goods used for towers and shelters, can be settled in favour of the Assessee.

4.2 As regards the issue of admissibility of CENVAT Credit on 'input services' with respect to towers and shelters, the learned Counsel

submits that the definition of 'input services' as provided under Rule 2(I) of the Cenvat Credit Rules is of wide amplitude and has been consistently interpreted to cover services integrally connected with business. She further submits that this issue of availment of CENVAT Credit on 'input services' is also no more *res integra* and has been decided in favour of the Assesseees by the Larger Bench of the Tribunal in the case of ***Idea Cellular Ltd vs. CST, Mumbai-IV [vide Interim Order No. 06/2024 dated 03.04.2024 in Appeal No. ST/86951/2015]***, wherein the Larger Bench has held that expression "input service" has a wide latitude and therefore, input services used for setting up and operation of telecom towers are eligible for credit, provided such services are used in the course of providing taxable output services. She also places reliance on the following cases, wherein also various benches of the Tribunal have affirmed that CENVAT Credit is admissible on a wide range on input services used for installation, maintenance and operation of telecom towers & shelters, as such services are directly used in providing such services:

- ***Vodafone Idea Ltd vs. CC & CCE, Meerut - 2025 (2) TMI 375 – CESTAT Allahabad***
- ***Vodafone Idea Ltd vs. CGST & CE, Coimbatore – 2025 (7) TMI 842 – CESTAT Chennai***
- ***Bharti Hexacom Limited vs. CCE & ST, Shillong – 2024 (10) TMI 1064 – CESTAT Kolkata***
- ***Commr of CGST & CE, Jaipur vs. M/s B.S.N.L. – 2024 (10) TMI 1399 – CESTAT New Delhi***

She also submits that the Tribunal in the Assesseees' own cases titled as ***M/s Indus Towers Ltd vs. CCE & ST, Delhi-IV [2020 (6) TMI 493 CESTAT Chandigarh]*** and ***M/s Indus Towers Ltd vs. CCE &***

ST, Delhi-IV [2019 (5) TMI 1988 CESTAT Chandigarh], has held that the Assesseees are entitled to avail CENVAT Credit on input services used for providing telecommunication services/ passive infrastructure used for providing output services.

4.3 As regards the interest and penalty, the learned Counsel submits that when the demand itself is not sustainable, the question of interest and penalty does not arise.

5. On the other hand, the learned Authorized Representative appearing for the Revenue reiterates the finding of the impugned OIOs.

6. We have considered the submissions made by both the parties and perused the material on record as well as the case-laws relied upon by the Assesseees. We find that there are two issues involved in the present case – (i) Denial of Cenvat Credit availed with respect to **capital goods** and **inputs** pertaining to towers & shelters; and (ii) Denial of Cenvat Credit availed with respect to **input services** pertaining to towers & shelters.

7. With regard to first issue, we find that this issue is no longer *res integra* as the same has been settled in favour of the Assesseees by the Hon'ble Supreme Court, the High Courts as well as by the various benches of the Tribunal.

7.1 We find that in the case of **M/s Bharti Airtel Ltd vs. CCE, Pune** (supra), the Hon'ble Apex Court has settled the issue of admissibility of CENVAT Credit pertaining to inputs and capitals goods

relating to towers and shelters. The Hon'ble Supreme Court has held that towers and pre-fabricated buildings do not constitute "immovable property" but are "goods" within the meaning of Cenvat Credit Rules. The Hon'ble Supreme Court has also observed that such telecom towers and pre-fabricated shelters are not permanently embedded in the earth but are merely bolted to the ground for ensuring stability and can be dismantled, relocated and reassembled without substantial damage. The Hon'ble Supreme Court has also held that although towers and shelters are not themselves devices for transmission or reception of signals, they are indispensable for the functioning of antennas which transmit and receive radio signals and consequently, such infrastructure is essential for rendering the output service of mobile telecommunications and hence, their use in providing output services, qualifies them for credit under the Cenvat Credit Rules.

7.2 Further, we find that the Jurisdictional High Court of Punjab & Haryana has also upheld the admissibility of CENVAT Credit in the Assessee's own case titled as ***Commr of CGST, Gurugram vs. Bharti Infratel Ltd [vide Order dated 27.02.2025 in STA-1-2021, STA-2-2021, STA-3-2021, STA-7-2021, STA-8-2021, STA-10-2021, STA-1-2022 & STA-10-2022]***.

7.3 Further, we find that this Tribunal also, in the Assessee's own cases titled as ***M/s Indus Towers Ltd vs. CCE & ST, Delhi-IV [2020 (6) TMI 493 CESTAT Chandigarh]*** and ***M/s Indus Towers Ltd vs. CCE & ST, Delhi-IV [2019 (5) TMI 1988 CESTAT Chandigarh]***, has held that the Assessee is entitled to avail

CENVAT Credit on items such as towers, shelter parts etc being inputs and capital goods used for providing output services.

8. With regard to second issue, we find that this issue is also no longer *res integra* and has been settled by the Larger Bench of the Tribunal in the case of ***Idea Cellular Ltd vs. CST, Mumbai-IV*** (supra) wherein the Larger Bench has held that expression "input service" has a wide latitude and therefore, the input services used for setting up and operation of telecom towers are eligible for credit, provided such services are used in the course of providing taxable output services. We also find that the said decision of the Larger Bench has been subsequently followed by various benches of the Tribunal in the cases cited supra.

9. Therefore, by respectfully following the ratios of various decisions cited supra, we hold that the Assessees are entitled to CENVAT Credit on inputs, capital goods and input services. Accordingly, the impugned OIOs, denying the CENVAT Credit on inputs, capital goods as well as input services, are not sustainable in law and therefore, we set aside the same and allow the appeals filed by the Assessees.

10. With regard to the Revenue's appeals to the extent of demands dropped in OIOs, we are of the considered opinion that there is no infirmity in the impugned OIOs passed by the learned Commissioner dropping the demand; therefore, we uphold the impugned OIOs and dismiss the appeals filed by the Revenue.

11. In result:

- The appeals, ST/60669/2018 & ST/60670/2018, filed by the Assesseees are allowed, with consequential relief, if any, as per law.
- The appeals, ST/60865/2018 & ST/60866/2018, filed by the Revenue are dismissed.

(Order pronounced in the open court on 17.03.2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)