CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD

REGIONAL BENCH – COURT NO. 03

Excise Appeal No. 12915 of 2018

[Arising out of OIA-VAD-EXCUS-002-APP-301-2018-19 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]

M/s Bharat Parenterals Ltd **........Appellant**
Survey No. 144 & 146, Jarod,Samlaya Road,
Haripura, Tal-Savli, Vadodara,
Gujarat-391520.

VERSUS

C.C.E. & S.T.-Vadodara-ii **.....Respondent**
1st Floor, Room No.101,
New Central Excise Building,
Vadodara,
Gujarat-390023

APPEARANCE

Sh. Willingdon Christian, Advocate for the Appellant
Sh. S.K. Shukla, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR

FINAL ORDER NO. A/ 11448 /2019

DATE OF HEARING: 31.07.2019
DATE OF DECISION: 31.07.2019

RAMESH NAIR

The issue involved is admissibility of the cenvat credit in respect of repair and maintenance of wind mill located outside the factory at Kutch.

2. Sh. Willingdon Christian Ld. Counsel appearing on behalf of the appellant at the outset submits that the issue is settled in favour of the assessee in following judgments:

- Parry Engg. & Electronics P. Ltd 2015 (40) STR 243 (Tri.LB)
- Endurance Technology Pvt. Ltd 2017 (52) STR 361 (Bom.)

He further submits that in their own case, the issue has been decided in their favour by this Tribunal vide Final Order No. A/11880-11886/2017 dated 17.08.2017.

3. Sh. S. K. Shukla Ld. Superintendent (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. Heard both the sides and perused the records. From the judgments cited by Ld. Counsel, the issue has been settled according to which the cenavt credit in respect of repair and maintenance of wind mill even located outside the factory is admissible in the appellant's own case by <u>Final Order dated 17.08.2017</u>. The Tribunal has allowed the cenvat credit by following order:

> *"Heard both sides. The short issue involved in the present appeals is: whether the Respondents are entitled to CENVAT credit paid on repair and maintenance service on windmill situated away from the appellants' factory. The issue is covered by the Larger Bench decision of this Tribunal in the case of Parry Engg. & Electronics Pvt. Ltd. vs. C.C.E., Ahmedabad I, II, III - 2017 (50) STR 28 (Tri-Kol.). In the result, the impugned orders are upheld and the Revenue's appeals are dismissed. Cos disposed of."*

5. Following the settled legal position, the appellant is entitled for the cenvat credit on repair and maintenance services of wind mill. Accordingly, the impugned order is set aside and appeal is allowed.

(Dictated & pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

Seema