

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

Appeal No. E/10843/2018-SM

[Arising out of OIA-VAD-EXCUS-002-APP-366-2017-18 dated 30.08.2017 passed by the
Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]

M/s Panoli Intermediates (India) Pvt. Ltd Appellant

Vs

C.C.E. & S.T.,- Vadodara-ii Respondent

Represented by:

For Appellant: Shri Shailesh Vyas (Advocate)

For Respondent: Shri T.K. Sikdar (AR)

CORAM:

HON'BLE SHRI RAMESH NAIR, MEMBER (JUDICIAL)

Date of Hearing/Decision: 10.12.2018

Final Order No. A/ 12972 /2018

Per: Ramesh Nair

The issue involved is that whether the appellant is entitled for cenvat credit in respect of Commercial or Industrial Construction services and Works Contract Services.

2. Sh. Shailesh Vyas Ld. Counsel appearing on behalf of the appellant submits that the credit was denied on the ground that the Commercial or Industrial Construction Services and Works Contract Services used by the appellant for new construction. He submits that the appellant have produced all the documents such as works contract, copy of invoice, etc. He invited attention to all the documents wherein he has pointed out that the service are of repair, maintenance or modernization of the existing factory, therefore, the service is not for new construction. He placed reliance on judgment of this Tribunal passed by Final Order No. A/10221-10222/2018 dated 30.01.2018 in the case of Banco Gaskets (i) Ltd.

3. Sh. T.K. Sikdar Ld. Assistant Commissioner (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order. He invited my attention to the finding given by the Ld. Commissioner (Appeals) that no documentary evidence was produced to prove that the construction service is of repair, maintenance or modernization or otherwise.

4. I have carefully considered the submissions made by both the sides and perused the records. I find that from the documents shown by the Ld. Counsel which are enclosed in the appeal papers such as works contract, invoice copy raised by the service provider. It is clear that the construction service is in the nature of repair, maintenance or modernization of the existing plant. It is not case of the department that new factory building was constructed, the existing factory is not indispute, therefore, considering all the documents as well as facts that the construction was carried out on the existing building, such services are of repair, maintenance and modernization which are not excluded from the definition of the input service. Accordingly, the appellant is entitled for the cenvat credit in respect of Commercial or Industrial Construction Services and Works Contract Services. Accordingly, the impugned order is set aside. Appeal is allowed.

(Dictated & pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

Seema