IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I
APPEAL No.E/71071/2018-EX[SM]

(Arising out of Order-in-Appeal No.NOI-EXCUS-001-APP-1902 & 1903-17-18 dated 26/03/2018 passed by Commissioner (Appeals), Goods & Central Tax, Noida)

M/s Jindal Pipes Ltd. **Appellant**

Vs.

Commissioner, CGST, Noida **Respondent**

Appearance:
Shri Rajesh Chhibber (Adv.) for Appellant
Shri Mohd. Altaf, Assistant Commissioner (AR), for Respondent

CORAM:
Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Date of Hearing/ Decision : 14/03/2019

FINAL ORDER NO.**70726 / 2019**

Per: Archana Wadhwa

After hearing both the sides duly represented by learned advocate Shri Rajesh Chhibber appearing on behalf of the appellant and learned A.R. Shri Mohammad Altaf appearing on behalf of the Revenue, I find that the appellants who are engaged in the manufacture of 'Pipes & Tubes', were availing the benefit of Cenvat Credit paid on the 'Commission Agent Services'. Such commission agents were appointed by the appellant for providing service of promotion, procurement and selling of the goods manufactured by the said manufacturer. Commission Agents were paying service tax under the category of 'Business Auxiliary Service', on the commission earned by them and the appellant was availing the cenvat credit of the same.

2. Revenue by entertaining a view that such credit is not admissible to the appellant and had accordingly initiated proceedings resulting in passing of the present impugned order.

3. I find that the issue stands decided by various decisions of the Tribunal. Reference can be made to Tribunal decision in the case of M/s DSCL Sugar V/s Commissioner of Central Excise, Lucknow reported as 2012 (25) S.T.R. 599 (Tri.-Del.) as also in the case of M/s Seksaria Biswan Sugar Factory Ltd. V/s Commissioner of Central Excise, Lucknow reported as 2014 (33) S.T.R. 292 (Tri.-Del.). By referring to various precedent decisions as also to the Boards Circular No.943/4/2011-CX dated 29.04.2011, its stand held that such service tax paid on the commission agent services is available as cenvat credit even after amendment to the definition of input service after 01.04.2011. By following the said decision, I set aside the impugned order and allow the appeal with consequential relief.

(Pronounced & Dictated in Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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