CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
CHENNAI

Appeal No.E/191/2012 & E/CO/42/2012

[Arising out of Order-in-Appeal No.83/2011 dt. 29.12.2011 passed by Commissioner (Appeals) Central Excise & Service Tax, LTU, Chennai]

Commissioner of Central Excise & Service Tax
LTU, Chennai — Appellant

Versus

Axles India Ltd. — Respondent

Appearance :

Shri S. Govindarajan, AC (AR)
For the Appellant

Ms. K. Nancy, Advocate
For the Respondent

CORAM :

Hon'ble Ms. Sulekha Beevi C.S. Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of hearing / decision : 19.04.2018

FINAL ORDER No. 41225 / 2018

Per Bench

After hearing both sides, we find that the issue in dispute pertains to denial of input service credit in respect of service tax paid for lease rentals for generation of electricity through windmills which are situated outside the factory of the appellant. We find that the matter is no longer *res integra* and is squarely covered by the judgment of the Hon'ble High Court of Bombay in the case of *CCE Aurangabad Vs Endurance Technology Pvt. Ltd.* - 2017 (52) STR 361 (Bom.). The ratio laid down by the High Court of Bombay has also been followed by CESTAT Chennai in Final Order Nos.40281-40326/2015 dt. 25.02.2015 which disposed of a batch of appeals on the very dispute. In the event, we find no infirmity in the impugned order of the Commissioner (Appeals) which has also relied on the ratio laid down by Bombay High Court in *Endurance Technology (*supra) and has held that respondents are eligible for availment of input service credit in respect of the rentals paid on windmills. Impugned order therefore does not require any interference. In consequence, department appeal is dismissed. Cross objections filed by respondents which are in the nature of written submissions are also disposed of.

(dictated and pronounced in court)

(Madhu Mohan Damodhar)
Member (Technical)

(Sulekha Beevi C.S)
Member (Judicial)

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