CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT –IV

Excise Appeal No.E/50939/2014 EX. [SM]

[Arising out of Order-in-Appeal No.564/SVS/GGN/2013 dated 23.10.2013 passed by the Commissioner of Central Excise (Appeals), Delhi-III]

C.C.E., Delhi-III …Appellant

Vs.

Satyam Auto Components Ltd. … Respondent

Present for the Appellant : Shri G.R. Singh, D.R.
Present for the Respondent: Shri B.L. Yadav, Consultant.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

Date of Hearing/Decision: 26.10.2015

FINAL ORDER NO. 54300/2015

PER: S.K. MOHANTY

Revenue is in appeal against the impugned order dated 23.10.2013 passed by the Commissioner of Central Excise (Appeals), Gurgaon, wherein service tax paid on outdoor catering was allowed as Cenvat credit in favour of the respondent herein. The grievance of Revenue in this appeal is that Service Tax paid on outdoor catering service is not eligible for cenvat credit in terms of the definition of input service contained in Rule 2 (l) of the Cenvat Credit Rules w.e.f. 01.04.2011. According to the Revenue, since the dispute involved in this case is 2011-12, as per the amended definition of input service, cenvat credit taken on the disputed service is not eligible to the respondent.

2. Heard both sides and perused the records.

3. I find that there is confusion in this case with regard to the period of dispute. In the original proceedings, the period has been mentioned as 2011-12; whereas, in the impugned order, it has been specifically mentioned in paragraph 2.12 that the period involved is prior to 01.04.2011. Since eligibility of cenvat credit on the disputed service is dependent on the definition of 'input service' in existence at the material time, I am of the view that matter should go back to the Commissioner (Appeals) for ascertaining the fact as to what exactly is the period involved in this case.

4. Therefore, by setting aside the impugned order, the matter is remanded back to the Commissioner (Appeals) for passing a fresh order upon consideration of the period involved in this matter. Needless to say, the appellant shall be granted the opportunity for presenting its case. The appeal is disposed of by way of remand.

(Dictated and pronounced in the open Court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita