IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. IV

DATE OF HEARING : 18/05/2017.
DATE OF DECISION : 18/05/2017.

Service Tax Appeal No. 584 of 2011 (SM)

[Arising out of the Order-in-Original No. 1/2011 (CE) – Commr. dated 12/01/2011 passed by The Commissioner of Service Tax, Central Excise & Customs, Jaipur.]

M/s Genus Power Infrastructure Ltd. Appellant

Versus

CCE, Jaipur – I Respondent

Appearance

Shri Jatin Mahajan, Advocate – for the appellant.

Ms. Kanu Verma Kumar, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Shri B. Ravichandran, Member (Technical)**

Final Order No. 53368/2017 Dated : 18/05/2017

Per. B. Ravichandran :-

The appeal is against order dated 12/01/2011 of Commissioner of Central Excise (I), Jaipur. The appellants are engaged in the manufacture of electricity meters liable to Central Excise duty. They were also engaged in erection, commissioning and installation service liable to service tax. The dispute in the present case is with reference to the eligibility of the appellant to avail credit of service tax paid on insurance premium taken on the goods used in the projects executed by the appellant. The Original Authority held that the said goods procured by the appellant, from the open market, were insured by them. The service tax paid on insurance of such goods cannot be considered as input service because these services were neither used by the appellant for providing any output service nor used in or in relation to manufacture of any final product. The Original Authority relied on his own decision on the same issue, for the earlier period.

2. I have heard both the sides and perused the appeal records. The learned Counsel for the appellant submitted that in the appellant's own case, the Tribunal vide final order No. 53525 of 2016 – CU (DB) dated 14/09/2016 allowed their appeal against the earlier order (which was relied upon in the present impugned order) and held that the appellants are eligible for credit of service tax paid on insurance services availed for the goods. I find that the Tribunal dealt with same set of facts in appellant's own case and allowed the credit. Following the ratio of the said decision of the Tribunal, I find that the impugned order is not sustainable. Accordingly, the same is set aside. The appeal is allowed.

(Dictated and pronounced in open court)

(B. Ravichandran)
Member (Technical)

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