IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT –III

Excise Appeal No.E/53129/2015 [SM]

[Arising out of Order-in-Original No.23-24/COMMR/IND/CEX/2015 dated 01.06.2015 passed by the Commissioner of Central Excise, Customs & Service Tax, Indore]

M/s.V.E. Commercial Vehicles Ltd. …Appellant

Vs.

C.C.E & S.T. , Indore … Respondent

Present for the Appellant : Mr. Shashvat Arya, Advocate
Present for the Respondent: Mr.K. Poddar, D.R.

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

Date of Hearing/Decision: 16/06/2017

FINAL ORDER NO. __54385/2017_

PER: S.K. MOHANTY

Denial of cenvat credit on service tax paid on repair and maintenance contract (AMC of air-conditioner and water cooler) and architect service are the subject matter of present dispute.

2. Ld. Advocate appearing for he appellant submits that the maintenance and repair of the air-conditioner and water coolers is in respect of the office building located within the factory and those buildings have nexus with the manufacture of ultimate final product. He also relied on the decision of this Tribunal in the case of Eicher Motors Ltd. vs. CCE, Indore-2016-TIOL - 2375 - CESTAT – Del. and VE Commercial Vehicle

Ltd. v. CCE, Indore – 2017 – TIOL - 14 - CESTAT-Del. With regard to architect service, the submissions of the ld. Advocate are that construction service and architect service are separately defined under the Finance Act and thus, such service cannot be considered as construction service for the purpose of denying the cenvat benefit. In this context, the ld. Advocate has relied on this Tribunal decision in the case of Maruti Suzuki India Ltd. v. CCE, Delhi – III – 2017 – TIOL – 207 – CESTAT – CHD.

3. On the other hand, the ld. D.R. appearing for the respondent reiterates the findings recorded in the impugned order.

4. Heard both sides and perused the records. The fact is not under dispute that the services of annual maintenance contract in respect of maintenance of air-conditioner and water coolers were for the building located within the factory, from where the activities relating to manufacture of the finished goods is also monitored.

5. I find that in respect of repair and maintenance of air-conditioners and water coolers etc., this Tribunal in the case of Eicher Motors Ltd. (supra) has allowed the cenvat credit. As regards architect service, I find that the cenvat credit has been denied on the ground that the said service is in relation to construction and as such, is excluded from the purview of definition of input service. However, on perusal of the statutory definition, I find that construction service has been defined in Section 65 (105) (zzq), whereas the architect

service has been definition in Section 65 (105) (p) of the said Act. Thus, two services cannot be considered as the same service for the purpose of denying the cenvat benefit. This Tribunal in the case of Maruti Suzuki (supra) has allowed the cenvat credit on architect service.

6. In view of above, I do not find any merits in the impugned order. Accordingly, after setting aside the same, I allow the appeal in favour of the appellant.

[Dictated and pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita