IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

BENCH-SM

COURT –IV

Service Tax ROA Application No. ST/ROA/50452/2017-SM in Service Tax Appeal No.ST/50658/2014 SM]

[Arising out of Order-in-Appeal No.151(VC) ST/JPR-I/2013 passed by the Commissioner (Appeals-I), Customs & Central Excise, Jaipur]

M/s.Genus Power Infrastructure Limited …Appellant

Vs.

C.C.E., Jaipur … Respondent

Present for the Appellant : Mr. Jatin Mahajan, Advocate
Present for the Respondent: Mr.G.R. Singh, D.R.

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

Date of Hearing/Decision: 11/09/2017

FINAL ORDER NO. 56579/2017

PER: S.K. MOHANTY

The applicant has filed this Misc. Application, seeking restoration of appeal, which was disposed of by the Tribunal ex-parte vide **Final Order dated 14.07.2016** in absence of the appellant. Now the applicant has filed this Misc. Application, stating that on the scheduled date of hearing, due to some pre-occupation, the Advocate was not present in the Court. Accordingly, it has been prayed for restoration of the appeal in terms of the proviso to Rule 20 of the CESTAT Procedure Rules, 1982. Considering the fact that the appeal was disposed of by the Tribunal ex-parte, I am of the view that the restoration application can be considered in the interest of justice. Accordingly, the ROA application filed by the applicant is allowed.

2. Since a very short issue involved in this appeal for consideration, the same is taken up for hearing on the request of the ld. Advocate for the appellant.

3. The ld. Advocate submits that for non-submission of the invoice, the authorities below have denied the Cenvat credit to the appellant. He submits that since the invoice is available with the appellant, on the basis of which the credit was availed, denial of the same is not proper and justified. Thus, he prays for remanding the matter back to the original authority for verification of the documents.

4. In view of the fact that the invoice is available with the appellant to show that the credit has been correctly taken on such invoice, I am of the view that matter should be remanded to the original authority for verification of such invoice. If the invoice is in conformity with Rule 9 of the Cenvat Credit Rules, 2004, the Cenvat Benefit should be available to the appellant.

5. Therefore, the appeal is allowed by way of remand to the original authority.

[Dictated and pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita