IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

BENCH-SM

COURT –IV

Excise Appeal No.E/57442/2013 [SM]

[Arising out of Order-in-Appeal No.37 (RDN)CE/JPR-1/2013 dated 12.02.2013 passed by the Commissioner (Appeals), Central Excise & Service Tax, Jaipur]

M/s.Balkrishna Industries Ltd. …Appellant

Vs.

C.C.E.& S.T., Jaipur-I … Respondent

Present for the Appellant : Ms. Sukriti Das, Advocate
Present for the Respondent: Mr.G.R. Singh, D.R.

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

Date of Hearing/Decision: 12/10/2017

FINAL ORDER NO. 57338/2017

PER: S.K. MOHANTY

Brief fact of the case are that the appellant is engaged in the manufacture of tyres falling under Chapter 40 of the First Schedule to the Central Excise Tariff Act, 1985. During the disputed period, the appellant availed Cenvat Credit of Service Tax paid on the Business Auxiliary Service by the service provider. The Department denied the Cenvat Credit on the ground that M.S. Gandola, cannot be considered as input service under Rule 2 (l) of the Cenvat Credit Rules, 2004.

2. The ld. Advocate appearing for the appellant submits that for assembly of M.S. Gandola, the service provider has issued the service tax invoice under business auxiliary service

and since service tax liability was discharged by the service provider, the same was availed as Cenvat Credit by the appellant. She submits that taking of Cenvat Credit is in conformity with Rule 2 (l) read with Rule 3 ibid.

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

4. Heard both sides and perused the case records.

5. The fact is not under dispute that the appellant had availed the Cenvat Credit based on the valid service tax paid documents issued by the service provider. Since taking of Cenvat Credit is based on valid document and relates to the service for assembling of M.S. Gandola, I am of the view that taking of Cenvat Credit is in conformity with the Cenvat Credit Rules. Thus, Cenvat Credit benefit cannot be denied in questioning non-observance of the procedures contained in Notification No. 214/86 dated 25.03.1986.

6. Therefore, I do not find any merits in the impugned order. Accordingly, after setting aside the same, the appeal filed by the appellant is allowed.

[Dictated and pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita