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

Date of Hearing/ Decision: 31.10.2017

Appeal No. ST/50337/2017-SM
[Arising out of Order-in-Appeal No. BHO-EXCUS-002-APP-138-16-17 dated 05.10.2016 passed by the Commissioner (Appeals), Central Excise, Raipur]

CCE & ST, Raipur — Appellant

Vs.

Satya Automobiles — Respondent

Appearance

Shri G.R. Singh, AR - for the appellant

Shri Ashok Batra - for the respondent

CORAM: **Hon'ble Mr. M.V. Ravindran, Member (Judicial)**

Final Order No. 57526/2017

Per M.V. Ravindran:

1. This appeal if filed by the Revenue against Order-in-Appeal No. 138-16-17 dated 05.10.2016.

2. Heard both sides and perused records.

3. On perusal of the records, and the grounds of appeal I find that revenue is aggrieved by the impugned order on the ground that the First Appellate Authority has allowed the entire Cenvat credit availed by the respondent of the Service Tax paid on various input services, for example, telephone services and banking and financial service, manpower services etc. It is the case of the Revenue in the show cause notice that the Service Tax paid on the various input services are utilized by the respondent for rendering taxable as well as exempted services. Respondent contested the show cause notice stating in clear terms that the services rendered by various service providers are utilized only for the taxable services rendered by

them viz "authorized service station" and "business auxiliary service". The said categorical averment of the respondent has been brushed aside by the Adjudicating Authority recording that these are all after thoughts. Coming to such a conclusion, demand of reversal of Cenvat credit was confirmed with interest. The First Appellate Authority after going through the entire records held in favour of the respondent in respect of denial of Cenvat credit in the impugned order as recorded at paragraph No 60. The First Appellate Authority has categorically recorded that the respondent has been engaged only in providing "authorized service station services" and "business auxiliary services" for which they have discharged Service Tax liability. I find that the Revenue's appeal is not adducing any contrary evidence to indicate that the claim of the appellant as to the input services were not used only for the rendering of "authorized service station services" and "business auxiliary services" but also for trading activities. There is no statement recorded nor there is any evidence produced to show that the said services are also utilized for trading activity. In the absence of any evidence to support their case, I find that the Revenue's appeal against the impugned order fails miserably.

4. The impugned order to the extent it is challenged by the Revenue is held as correct, legal and inconformity to the law. Appeal is dismissed as devoid of merits.

(Order dictated and Pronounced in open Court)

(M.V. Ravindran)
Member (Judicial)

Rekha