IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I

Excise Appeal No. 50651 of 2017

[Arising out of the Order-in-Appeal No. 03-AK-CE-JPR-2017 dated 30.01.2017 passed by Commissioner of Customs & Central Excise, Jaipur]

M/s. Hindustan Zinc Ltd. **Appellant**

Vs.

Commissioner of Central Excise **Respondent**
Udaipur

Appearance:
Shri Hemant Bajaj and M/s Sukriti Das, Advocates for the Appellants
Shri M R Sharma, DR for the Respondent

CORAM:
Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. B Ravichandaran, Member (Technical)

Date of Hearing/ Decision: 1.1. 2018

FINAL ORDER No. 50101 /2018

Per: B Ravichandaran:

The dispute in the present appeal is with reference to denial of cenvat credit of Rs.88,065/- on the ground that input service availed by the appellants are with reference to repair of Low Profile Dum Truck (LPDT) used within the mining area.

2. We have heard the parties and perused the material available on record. The admitted facts are that (LPDT) are essentially mining machines used within the mining area in extraction of ore by the

appellant. Certain input services were used for upkeep and maintenance of such trucks. We note that denial is on the ground that truck is classifiable under chapter 87 or not as capital goods and the services used in repair and maintenance of such goods will not be input services. We note that the Tribunal in various cases held that mining equipment, like dumpers etc are in the nature of machinery or equipment for material handling etc. used within the mining area and as such, the credit with reference to tyres used for said vehicles, repair services, maintenance service were eligible for credit. A reference can be made to the decision of the Tribunal in the case of ***CCE Bhopal vs. Hindustan Copper Ltd. [2016 (342) ELT 282 (Tri-Del)]*** where the Tribunal has allowed the credit on tyres which were used in the dumpers used in the captive mines holding dumpers as material handling equipment integrally connected in the manufacturing process of final products.

3. In view of the legal position as held in various decisions of the Tribunal , we note that input services credit are admissible to the appellant in the present case. Accordingly, impugned order is set aside and appeal is allowed.

(Dictated and pronounced in the open Court)

(Justice (Dr.) Satish Chandra)
President

(B Ravichandaran)
Member(Technical)

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