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

COURT NO. IV

DATE OF HEARING : 26/02/2018.
DATE OF DECISION : 26/02/2018.

Excise Appeal No. 50077 of 2017

[Arising out of the Order-in-Original No. ALW-EXCUS-O-I-O-Comm-50/16-17 dated 04/10/2016 passed by The Commissioner, Central Excise & Service Tax, Alwar.]

M/s Orient Refractories Ltd. Appellant

Versus

CCE & ST, Alwar Respondent

Appearance

Shri Ankit Totuka, Advocate – for the appellant.

Shri M.R. Sharma, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri S.K. Mohanty, Member (Judicial)**
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 50944/2018 Dated : 26/02/2018

Per. S.K. Mohanty :-

Denial of Cenvat credit of service tax paid on sales commission is the subject matter of present dispute. The Department has confirmed the service tax demand on the ground that such service is not confirming to the definition of 'input service' contained in Rule 2 (l) of the Cenvat Credit Rules, 2004.

2. Both sides agree that the issue arising out of the present dispute is no more res-integra, in view of the decision of this Tribunal in the case of **Essar Steel India Ltd. vs. CCE & ST, Surat – I – 2016 (335) E.L.T. 660 (Tri. – Ahmd.)**. On perusal of such decision of the Tribunal, we find that the issue has been squarely dealt with by the Tribunal, holding that service tax paid on commission amount should be considered as input service for the purpose of availment of Cenvat credit. Further, we also find that the ratio decided therein has also been subsequently followed by the Tribunal in various cases.

3. Therefore, we do not find any merit in the impugned order. Accordingly, after setting aside the same, we allow the appeal in favour of the appellant.

(Order dictated and pronounced in the open court.)

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

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