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/51665/2017-EX [SM]

[Arising out of Order-in-Appeal No.IND-EXCUS-000-APP-051 TO 063-17-18 dated 18.08.2017 passed by the Commissioner (Appeals), Central Goods & Service Tax & Central Excise, (CGST & CX), Indore]

M/s.RSAL Steel Private Limited ...Appellant

Vs.

C.C.E. & S.T., Indore ... Respondent

Present for the Appellant : None
Present for the Respondent: Mr.G.R. Singh, D.R.

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

Date of Hearing: 24/01/2018
Pronounced on :28/03/2018

FINAL ORDER NO. 51114 /2018

PER: S.K. MOHANTY

Denial of cenvat credit of Service Tax paid on telephone service is the subject matter of present dispute. The period involved in this case is from April, 2004 to September, 2015. The ld. Commissioner (Appeals) has held that telephone service had been used by the appellant in relation to business activities and thus, Service Tax paid on such service is eligible for cenvat benefit up to the period 31.03.2011. However, he has denied the cenvat credit for the period from 01.04.2011 to 31.09.2015, on the ground that the said service has neither been used directly or indirectly in the manufacture of final product, nor specified in the inclusive clause of definition of input service, under Rule 2(l) of the Cenvat Credit Rules, 2004.

2. None appeared for the appellant and prayer made for deciding the appeal on the basis of available records. Heard the ld. D.R. for Revenue.

3. The appellant had submitted before the authorities below that telephone service has got a direct impact on planning, organizing of manufacturing activities and thus, the said service has direct nexus with manufacturing and clearances of finished excisable goods. Further, from the letters dated 03.12.2013, 02.04.2014, 01.09.2014, 23.03.2016 addressed by the appellant to the Superintendent (Audit), I find that the appellant had stated that the common input service credit taken in respect of the manufacturing of the goods as well as for the trading activities was proportionately reversed in respect of use /utilisation of such input service in the trading activity. However, I find that such submissions of the appellant have not been specifically addressed either in the original or the impugned orders.

4. In view of the fact that the disputed input service has been used in or in relation to the manufacture of the final product by the appellant and in view of the fact that the appellant had reversed proportionate cenvat credit in respect of use of input service for trading activity, I am of the considered view that the disputed service is confirming to the

definition of input service under the amended provisions of Rule 2 (l) of the Cenvat Credit Rules, 2004, with effect from 01.04.2011.

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

[Pronounced in the Open Court on 28/03/2018]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita