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

Date of Hearing/Order: 23.4.2018

Appeal No. E/50740/2018-SM

(Arising out of Order-in-Appeal No. 06(AG)CE/JDR/2017 dated 18.12.2017 passed by the Commissioner (Appeals), Central Excise, Jaipur)

CCE, Udaipur — Appellant

Vs.

M/s RSWM Ltd. — Respondent

Appearance

Shri H.C. Saini, D.R. - for the appellant

Ms. Rinky Arora, Advocate - for the respondent

CORAM: Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Final Order No. 51585/2018

Per Ms. Archana Wadhwa:

Being aggrieved with the order passed by Commissioner (Appeals), Revenue has filed the present appeal.

2. After hearing both the sides, I find that the respondent was availing rent-a-cab services and were taking the Cenvat credit of service tax paid on the same. Proceedings were initiated against the appellant proposing to deny the credit availed by them during the period July 2014 to March 2016, by invoking the longer period of limitation, on the ground that the said services stand excluded with effect from 1.4.2011.

3. The Commissioner (Appeals) set aside the order of the original adjudicating authority confirming the demands, by following the Tribunal's decision in the case of ***Marvel Vinyls Ltd. Vs. CCE, Indore*** – 2017 (49) STR 424 (Tri.-Del.). It was held in the said decision that the exclusion clause is in respect of input services of renting of the motor vehicle which is not a capital good and does not include the renting of cab services entirely. Inasmuch as for recipient of the rent-a-cab service, the question of capital goods will not arise, the exclusion will not apply.

4. Revenue in their appeal memo have contested that the said decision was given in the context of provider of rent-a-cab services and not in the context of recipient of the said services. As such, they seek to distinguish the applicability of the Tribunal's decision in the case of ***Marvel Vinyls Ltd.*** (supra).

5. However, I find that the above contention of the Revenue is not factually correct. On going through the Tribunal's decision in the case of ***Marvel Vinyls Ltd.,*** I note that the same was also in the context of recipient of the services. As such, the said decision is at all four corners of the facts of the present case and is fully applicable. Accordingly, Revenue's appeal is rejected.

(Dictated & pronounced in open Court)

(Archana Wadhwa)
Member (Judicial)

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