CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi

COURT –II

Date of hearing/ Decision: 31.08.2018

Appeal No. E/51863/2018-[EX] SMC
[Arising out of Order-in-Appeal No. OIA-IND-EXCUS-000-APP-798-17-18 dated 27/03/2018 passed by COMMISSIONER OF CGST & CENTRAL EXCISE-INDORE (Appeal)

Scientific Mes Technik Pvt Ltd — Appellant

Vs.

C.C.E. & S.T.-INDORE — Respondent

Appearance:
None (on merits) for the appellant
Sh. P. Juneja, DR for the Respondent

Coram:
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order No._52897/2018__

Per: V. Padmanabhan

1. The present appeal is filed against the Order-in-Appeal No. 798/2017-18 dated 27/03/2018. The appellant is engaged in the manufacture of various excisable products falling under Chapter 85 and 90 of the Central Excise Tariff Act, 1985. The appellant was availing the facility of Cenvat Credit under Cenvat Credit Rules, 2004. The Department noticed during the scrutiny of the returns filed by the appellant that they have availed Cenvat Credit on Goods Transport Agency (ETA) Service for transportation of finished goods from their factory for delivery at the customers end. Revenue formed the view that the said credit is inadmissible in view of the amended definition of the term 'input service' as provided in Rule 2 (l) of the Cenvat Credit Rules, 2004. The said Rule after its amendment in 2008, allowed such credit of input service only up to the place of removal. Which In this case was the

factory gate. Accordingly, the Department disallowed the Cenvat Credit availed during the period October, 2014 to June 2016. Aggrieved by the decision present appeal has been filed.

2. When the appeal was called, none appeared on behalf of the appellant. However, they have sent a letter requesting to decide the appeal on merit on the basis of appeal memo.

3. Heard Shri P. Juneja, Ld. DR for the Revenue.

4. He submitted that the issue stand settled in favour of Revenue by the Hon'ble Supreme Court in the case of ***Commissioner Of Central Excise And S.T v/s Ultra Tech Cement Ltd. 2018 (9) G.S.T.L. 337 (S.C.***).

5. Perused the Apex Court's decision (Supra). The Apex Court has categorically held that after the amendment of the definition of input services in Rule 2 (l), the credit on input services is restricted upto the place of removal. In the present case, the removal of goods has taken place at the factory gate and consequently the appellant will not be entitled to the Cenvat Credit for GTA Service availed up to the premises of the customer.

6. By following the decision of the Apex Court as above, the impugned order is sustained and the appeal rejected.

(Order dictated & pronounced in the open Court)

(V. Padmanabhan)
Member (Technical)

Rekha