IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT –IV

Service Tax Appeal No.ST/51734/2018-ST [SM]

[Arising out of Order-in-Appeal No.239(SM) CE/JPR/2018 dated 16.05.2018 passed by the Commissioner (Appeals), Central Excise & Central Goods & Service Tax, Jaipur]

M/s.Havells (India) Ltd. ...Appellant

Vs.

CCE & ST, Jaipur-I ... Respondent

Present for the Appellant : Mr.A.K. Vyas, AGM
Present for the Respondent: Mr.K. Poddar, D.R.

Coram: HON'BLE MRS. RACHNA GUPTA, MEMBER (JUDICIAL)

Date of Hearing/Decision: 29/01/2019

Final ORDER NO. 50251 /2019

PER: RACHNA GUPTA

The appellants herein are engaged in manufacture of Industrial /PVC/ Excel PE cables and are availing cenvat credit on inputs capital goods and input services. During the course of audit, the Department observed that the appellant has wrongly availed service tax credit on hotel bills alleging that the service provided by the hotels does not fall under the category of input services. The proposed demand of the show cause notice No.33/2016 dated 27.10.2016 was confirmed vide

Order-in-Original No. 128 dated 1st May, 2017 and the appeal thereof was rejected vide the order under challenge.

2. Mr. A.K. Vyas, ld. Advocate has impressed upon the written submissions as placed on record on behalf of the appellant.

3. Per-contra, Ms. Tamanna Alam, ld. DR has impressed upon para 8 of the order under challenge while justifying the said order.

4. After hearing both the parties and perusing the entire record alongwith the order under challenge & the written submission on part of appellant, it is observed that the original adjudicating authority has confirmed the demand holding that the service provided by the hotel to the appellant manufacturer qua the auditors etc. is not an input service. Whereas perusal of the impugned order shows that the nature of expenses incurred on the hotel bills for providing accommodation to the auditors of various agency is very much inclusive in the definition of input services. However, the demand has still been confirmed for want of any documentary evidence as is required under Rule 9 (6) of Cenvat Credit Rules. Both the orders though have confirmed the demand but based on two altogether different arguments It is also simultaneously apparent from the written submissions of the appellant that all requisite documents, as that of hotel bills were provided at the

stage of audit itself and then subsequently to the adjudicating authority as well.

5. In the given circumstances, I opine that the present matter to be a fit case to be remanded for *de novo* adjudication of the controversy involved. Appeal stands allowed by way of remand. Appellant is directed to produce all the hotel bills for the impugned period before the adjudicating authority within 15 days of receiving notice thereof.

[Dictated and pronounced in the Open Court]

(RACHNA GUPTA)
MEMBER (JUDICIAL)

Anita