

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD**

Bench – SM
Court – I

Appeal No. E/30698/2018

(Arising out of Order-in-Appeal No. HYD-EXCUS-SC-AP2-0229-17-18
dated 25.01.2018 passed by Commissioner of GST & Central Excise
(Appeals-II), Hyderabad)

M/s Sri Krishna Pharmaceuticals Ltd.,Appellant(s)

Vs.

**Commissioner of GST & Central Excise,
Secunderabad**Respondent(s)

Appearance

Shri Lalit Mohan Chandna, Consultant for the Appellant.
Shri AVLN Chary, Superintendent (AR) for the Respondent.

Coram:

Hon'ble Mr. M. V. RAVINDRAN., MEMBER (JUDICIAL)

Date of hearing: 05/12/2018

Date of decision: 05/12/2018

FINAL ORDER No. A/31500/2018

[Order per: M. V. Ravindran.]

This appeal is directed against Order-in-Appeal No. HYD-EXCUS-SC-AP2-0229-17-18 dated 25.01.2018.

2. Heard both sides and perused the records.
3. On perusal of records, it transpires that the issue is regarding the availment of CENVAT credit on various items which according to the Department are not eligible for CENVAT credit. The Adjudicating Authority dropped the proceedings initiated by the show

cause notice. Lower authorities aggrieved by such an Order-in-Original, preferred an appeal before the First Appellate Authority. The First Appellate Authority in the case in hand has reversed the order of the Adjudicating Authority holding that the items are not eligible for availment of CENVAT credit. One of the pertinent point raised by the appellant today before the Tribunal is that the First Appellate Authority has gone beyond the allegations in the show cause notice in form of that appellant never stated that the goods on which CENVAT credit was availed were inputs. It is his submission that availed the CENVAT credit as capital goods and the show cause notice also alleges that improper CENVAT credit availed on such capital goods.

4. On perusal of the records, I do find it so. The First Appellate Authority has not considered these pleas. Accordingly, I find that the issue needs to be reconsideration by the First Appellate Authority.

5. Without expressing any opinion on the merits of the case leaving all the issues open, the impugned order is set aside and the matter is remanded back to the First Appellate Authority to reconsider the issue afresh after following the principles of natural justice.

6. Appeal stands remanded.

(Operative part of this order was pronounced in open court
on conclusion of hearing)

M. V. RAVINDRAN
MEMBER(JUDICIAL)

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