IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NO: E/86267/2015

[Arising out of Order-in-Appeal No: PUN-EXCUS-001-APP-223-14-15 dated 9th March 2015 passed by the Commissioner of Central Excise (Appeals), Pune – I.]

Rinder India Private Limited …***Appellant***

versus

Commissioner of Central Excise
Pune – II ***…Respondent***

Appearance:

Shri Gundecha, Advocate for appellant

Shri S Hasija, Superintendent (AR) for respondent

CORAM:

Hon'ble Shri C J Mathew, Member (Technical)

Date of hearing: 17/11/2017
Date of decision: 17/11/2017

ORDER NO: ____________________________

M/s Rinder India Pvt Ltd were proceeded against for denial, and recovery, of CENVAT credit of ₹ 5,22,386 availed between July 2012 and December 2012 on services utilized by them. The original authority confirmed the demand, along with interest thereon, and having imposed penalty on them under the rule 15 of CENVAT Credit Rules, 2004 but Commissioner of Central Excise (Appeals), Pune, *vide* order-in-appeal no. PUN-EXCUS-001-APP-223-14-15 dated 9th March 2015, modified the demand to the extent of setting aside of ₹ 6,473 on repair and maintenance of building and the entire penalty. Appellant is before the Tribunal seeking the restoration of the other credits.

2. Heard Learned Counsel for appellant and Learned Authorized Representative. It is seen that the amount in dispute pertains to credit of tax paid on ‘clearing and forwarding services’ and on furniture and fixtures. As for is the latter is concerned, the first appellate authority was not inclined to allow the credit in view of any explanations or submissions forthcoming from the appellant in support of the claim.

3. Learned Counsel submits that this credit of ₹21,743 pertains to maintenance and repair of furniture and fixtures at the factory of manufacture. In view of the submission, and in the absence of any contrary evidence, there is no justification for denial of credit of this amount.

4. It is the contention of Learned Counsel that the ‘clearing and forwarding services’ pertains to tax paid on utilization of transport of export goods from their factory to the port of export. According to

him, circular no. 999/6/2015-CX dated 28^{th} February 2015 of Central Board of Excise & Customs clarifies that the port shall be deemed to be the place of removal for the purposes of availment of CENVAT credit. Moreover, he contends that in their own case, *vide* final order no. A/89608-89609/17/SMB, the Tribunal has held this to be so.

5. In view of these submissions, the denial of CENVAT credit on ‘clearing and forwarding charges’ is not tenable.

6. Accordingly, the impugned order to set aside in the appeal allowed.

(Pronounced in Court)

(C J Mathew)
Member (Technical)

**/as*