IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO.

Appeal No. E/86190/2016

(Arising out of Order-in-Appeal No. PUN-EXCUS-001-APP-0322-15-16 dt. 17.3.2016 passed by the Commissioner (Appeals) Central Excise, Pune-I)

Kalyani Maxion Wheels Ltd. : **Appellant**

VS

Commissioner of Central Excise, Pune-II : **Respondent**

<u>Appearance</u>

Shri M.P. Joshi, Advocate for Appellant

Shri Ajay Kumar, Addl.Commr. (A.R) for respondent

CORAM:

Hon'ble Shri Ramesh Nair, Member (Judicial)

Date of hearing : 22/12/2017
Date of decision: 22/12/2017

ORDER NO. A/92286/2017

The issue involved in the present case is whether the appellant is entitled for Cenvat credit on input service namely Rent-a-Cab service during the period 1-4-2013 to 28-2-2014.

2. Shri. MP Joshi, Ld. Counsel for the appellant submits that Rent-cab-service is necessary service for bringing the staff/employee to the factory therefore service is in or in relation to the manufacture of the final product therefore credit is admissible. He placed reliance on the judgment of *Commissioner of Service Tax, Pune Vs. M/s. Nihilent Technologies Pvt. Ltd.* 2017-TIOL-2696-CESTAT-MUM.

3. On the other hand, Shri Ajay Kumar Ld. Additional Commissioner (A.R.) appearing on behalf of the Revenue reiterates the findings of the impugned order. He further submits that w.e.f. 1-4-2011 Rent-a-Cab service was excluded from the definition of input service therefore credit is not admissible. He placed reliance on the decision of this Tribunal in case of Vinati Organics Ltd. vide Final order No. A/90639/17/SMB dated 13-10-2017.

4. On careful consideration of submissions made by both sides, I find that there is no dispute that appellant have availed Cenvat credit in respect of Rent-a-Cab service, which has been excluded from the definition of input service w.e.f. 1-4-2011 as per exclusion clause in the definition of input service therefore Cenvat credit on the Rent-a-Cab service is not admissible. This bench has taken similar view in case of Vinati Organics Ltd. (Supra) As regard the reliance placed by the Ld. Counsel in case of M/s. Nihilent technologies Pvt. Ltd. (supra) the same is not applicable for the reason that facts regarding the motor vehicle is whether capital goods or otherwise is not on record. Accordingly, I uphold the impugned order and dismiss the appeal.

(Pronounced in court)

(Ramesh Nair)
Member (Judicial)

SM.