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

Appeal No. E/1337/09

(Arising out of Order-in-Original No. 07/Commr/M-II/09 dated 16.9.2009 passed by the Commissioner of Central Excise, Mumbai-II).

Commissioner of Central Excise, Mumbai-II	Appellant

Vs.

M/s V.K. Engineering Pvt. Ltd.	Respondent

Appearance:

Shri Ajay Kumar, Addl. Commissioner (AR)	for Appellant
Shri H.G. Dharmadhikari, Advocate	for Respondent

CORAM:

HON'BLE SHRI RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE SHRI RAJU, MEMBER (TECHNICAL)

Date of Hearing: 20.03.2018

Date of Decision: 13.04.2018

ORDER NO. **A/86013 / 2018**

Per: Ramesh Nair

The issue involved in the present case is that whether the appellant is entitled for the CENVAT Credit on the inputs supplied directly at the site of manufacture of excisable goods.

2. Shri Ajay Kumar, learned Additional Commissioner (AR) appearing on behalf of the Revenue reiterating the grounds of appeal submits that as per the CENVAT Credit Rules, 2004, the

CENVAT credit can be allowed only if the input is received in the factory of the manufacturer. Therefore, in the present case, since the input was sent directly to the site, the credit cannot be allowed due to violation of the CENVAT Credit Rules.

3. Shri H.G. Dharmadhikari, learned Counsel appearing on behalf of the respondent submits that the input on which credit was taken was supplied to the site where the goods have been manufactured and the excise duty was paid, the value of the inputs so supplied directly has been included in the total value of the goods manufactured at site, therefore, there is no reason to deny CENVAT Credit. The learned Commissioner considering all these factual positions dropped the proceedings of the show-cause notice.

4. We have carefully considered the submissions made by both sides and perused the records. We find that undisputedly the goods were finally manufactured at site and respondent by considering the manufacture at site, discharged the excise duty. The inputs on which CENVAT Credit was availed, was supplied at the site has been admittedly used in the manufacture of such final product and excise duty was paid. In these factual positions, the compliance of CENVAT Credit Rules have been scrupulously made. The contention of the Revenue that the goods first should come to the factory is baseless for the reason that there is no purpose of bringing the inputs in the factory for the reason that the final product is manufactured at site, obviously the input has to go to the site and be used in the manufacture of final products. Therefore, we do not see any reason for denying the CENVAT Credit.

5. Therefore, we do not find any infirmity in the impugned order. Hence, the same is upheld and Revenue's appeal is dismissed.

(Pronounced in Court on 13.04.2018)

(Raju) **Member (Technical)**	**(Ramesh Nair)** **Member (Judicial)**

Sinha