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

COURT No. I

Appeal No. E/85823/16

(Arising out of Order-in-Appeal No. CD/703/Bel/2015 dated 02.10.2015 passed by Commissioner of Central Excise (Appeals), Mumbai)

I.G. Petrochemicals Ltd. **Appellant**
Vs.

Commissioner of Central Excise, Mumbai **Respondent**

Appearance:

Shri Ashwin Shetye, Advocate for appellant
Shri Ajay Kumar, Addl. Commr (AR) for respondent

CORAM:

Hon'ble Mr. M.V. Ravindran, Member (Judicial)

Date of Hearing & Decision: 15.03.2018

FINAL ORDER NO. A/86183/2018

Per: M.V. Ravindran

This appeal is directed against order-in-appeal No. CD/703/Bel/2015 dated 02.10.2015.

2. Heard both sides and perused the records.

3. On perusal of records, it transpires that the issue is regarding eligibility to avail CENVAT Credit of service tax paid on various services like consultancy services related to civil construction services during the period April 2011 to February 2012. Both the lower authorities have held that the service tax

paid on construction services is ineligible due to exclusion clause as introduced in the provisions of Rules 2(l) of Cenvat Credit Rules, 2004 and the definition of input service.

4. On casual perusal of documents on which CENVAT Credit has been availed, I find that the said service provider has rendered the services of construction service but the bill seems to be for repair and renovation. Learned Counsel fairly submits that they were in error in not producing the documents before the adjudicating authority to indicate that they were in respect of repairs and eligible as CENVAT Credit.

5. I find the submission of the learned Counsel is fair in seeking of remand to the adjudicating authority. The impugned order is set aside, leaving all the issues open, I remand the matter back to the adjudicating authority, keeping all the issue open, for fresh adjudication after following principles of natural justice. Appellant is at liberty to produce the documents on which they wish to rely upon in order to avail CENVAT Credit.

(Order dictated in Court)

(M.V. Ravindran)
Member (Judicial)

nsk