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

APPEAL NO: E/88520/2014

[Arising out of Order-in-Appeal No: 537/PD/14 dated 21st April 2014 passed by the Commissioner of Central Excise & Service Tax (Appeals – IV), Mumbai – I.]

Remi Electrotechnik Ltd. …***Appellant***

versus

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

<u>*Appearance*</u>*:*

Shri D H Nadkarni, Advocate for appellant

Ms Trupti Chauhan, Assistant Commissioner (AR) for respondent

CORAM:

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

Date of hearing:	**28/07/2017**
Date of decision:	**28/07/2017**

ORDER NO: A/ 92329 / 2017

M/s Remi Electrotechnik Ltd seeks setting aside of disallowance of CENVAT credit of ₹ 80,143 along with charging of interest thereon and penalty of ₹ 2,000/- that has been confirmed by the Commissioner of Central Excise & Service Tax (Appeals - IV), Mumbai – I *vide* order-in-appeal no. 537/PD/14 dated 21st April 2014 for wrong availment of CENVAT credit on 'outward freight' on transportation of finished goods manufactured by the appellant.

2. Heard Learned Counsel for appellant and Learned Authorised Representative.

3. It is submitted on behalf of the appellant that the tax on which credit is taken related to availment of 'courier service' on which tax liability had been discharged when payments made to them. It would appear that the lower authorities had confirmed the recovery on the erroneous premise that these are outward transportation which, in accordance with the provisions of CENVAT Credit Rules, 2004, would not be eligible owing to exclusion from the definition of 'input service' in rule 2(l) of CENVAT Credit Rules, 2004. It is not in dispute that the appellants had paid tax and it is established from the records that the service was not rendered by transporters but by courier agencies.

4. Accordingly, the order devoid any basis in law for which purpose it is set aside and the appeal is allowed.

(Pronounced in Court)

(C J Mathew)
Member (Technical)

**/as*