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

APPEAL NOS: E/85900, 85903 & 85907/2015

[Arising out of Order-in-Appeal No: CD/74-76/RGD/2015 dated 9th January 2015 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone – II.]

Kisan Irrigations Ltd …***Appellant***

versus

Commissioner of Central Excise
Raigad …***Respondent***

Appearance:

Shri Mehul Jiwani, Chartered Accountant for appellant

Shri KM D'Souza, Assistant Commissioner (AR) for respondent

CORAM:

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

Date of hearing:	**04/08/2017**
Date of decision:	**04/08/2017**

ORDER NO: A/ 92353-92355 / 2017

Three appeals of M/s Kisan Irrigations Ltd against order-in-appeal no.CD/74-76/RGD/2015 dated 9th January 2015 of Commissioner of Central Excise (Appeals), Mumbai–II are disposed off by this common order. The dispute which led to denial and recovery of CENVAT credit of ₹89,810, ₹1,35,323 and ₹19605 availed between 2006-07 and 2009-10 of tax paid in invoices issued by suppliers of courier service, goods transport agency service, and tour and travel service, along with interest, and imposition of penalty was upheld in the impugned order.

2. Heard Learned Chartered Accountant and Learned Authorized Representative. While it was contended on behalf of Revenue that the impugned order had categorically found that appellant had failed to discharge its obligation to establish entitlement to such credit arising from the services having been used in connection with its manufacturing activity.

3. That tour and travel service utilized for transportation of staff, are eligible input services is sought to be supported by the decision of the Hon'ble High Court of Karnataka in *Commissioner of Central Excise, Bangalore-III v. Tata Auto Comp Systems Ltd [2012 (277) ELT 315 (Kar)]*. Reliance is placed on the decision of the Tribunal in *Commissioner of Central Excise & Customs, Vapi v. Apar Industries Ltd [2010 (20) STR 624 (Tri-Ahmd)]*, upheld by the Hon'ble High Court of Gujarat, to bolster the claim for eligibility in relation to availment of courier service. On the credit availed in relation to goods transport agency service, it is contended that action should not have been initiated in view of section 11A(2) of, 1944.

4. In view of the above contentions, the demands of tax and the penalties imposed on the appellant will not sustain. Accordingly, the impugned order is set aside and appeals allowed.

(Pronounced in Court)

(C J Mathew)
Member (Technical)

**/as*