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

Appeal No. E/217/2010

(Arising out of Order-in-Appeal No. YDB/134/09-10 dated 29.10.2009 passed by the Commissioner of Central Excise (Appeals), Mumbai-II).

Commissioner of Central Excise, Raigad	Appellant

Vs.

M/s Venus Wire (Pvt.) Ltd.	Respondent

Appearance:

Shri A.B. Kulgod, AC (AR)	for Appellant
None	for Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR. S. SRIVASTAVA, MEMBER (TECHNICAL)

Date of Hearing: 11.09.2018

Date of Decision: 11.09.2018

ORDER NO. **A/87302 / 2018**

Per: Dr. D.M. Misra

None present for the Respondent. Heard the Ld. A.R for the Revenue.

This is an appeal filed by the Revenue against Order-in-Appeal No. YDB/134/09-10 dated 29.10.2009 passed by the Commissioner of Central Excise (Appeals), Mumbai-II.

2. The short issue involved in the present appeal is whether the appellants are eligible to avail CENVAT Credit of Service Tax

paid by them on ‘sales commission’ to the foreign based commission agent.

3. We find that the issue of eligibility of credit of Service Tax paid on ‘sales commission’ is no more *res integra* and covered by the judgment of this Tribunal in the case of *Lanco Industries Ltd. Vs. Commissioner of Central Excise, Thirupathi – 2010 (17) STR 350 (Tri-Bang),* which has been upheld by the Hon'ble Supeme Court reported as 2016 (45) STR J 219 (SC). No contrary judgment is placed by the Revenue.

4. Thus, following the aforesaid judgment, the impugned order is upheld and the appeal being devoid of merit liable to be dismissed. Revenue’s appeal dismissed.

(Operative portion of the order pronounced in Court)

(S. Srivastava) **Member (Technical)**	**(Dr. D.M. Misra)** **Member (Judicial)**

Sinha