IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.06.2017
CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
And
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

C.M.A.No.738 of 2016

The Commissioner of Central Excise,
Chennai III Commissionerate,
Chennai-600 034. .. Appellant

Vs.

1. M/s.Comstar Automotive Technologies Private Limited,
Keelakaranai Village,
Chengelpet-603 204.

2. Customs, Excise and Service Tax Appellate Tribunal,
South Zone Bench, Shastri Bhavan Annexe,
I Floor, 26, Haddows Road,
Chennai-600 006. .. Respondents

Prayer : Appeal filed under Section 35G of the Central Excise Act, 1944, praying to allow the departmental appeal against CESTAT's Final Order No.41145/2015, dated 03.09.2015 and to set aside the said order and to uphold the demand of recovery of ineligible credit available.

For Appellant : Ms.R.Hemalathan

For Respondents: Mr.G.Natarajan for R1

R2 - Tribunal

JUDGMENT

1. This appeal was admitted on 07.04.2016. The Court, at that time, framed two questions of law for adjudication.

2. Learned counsel for the parties are agreed that the first question of law, will suffice. The said question of law, being :

"(i) Whether the CESTAT was correct in holding that the assessee is entitled to avail the CENVAT credit on 'rent a cab services/air travel agent's service/tour operator service' provided to the staff/employees of the factory as an input service credit despite the fact that the said service does not fall under the ambit of the definition of 'input service' specified under Rule 2(l) of the CENVAT Credit Rules, 2004 and in as much as the said services are neither used in or in relation to the manufacture or clearance of final product nor can it be said to be an activity relating to business ?”

3. Ms.Hemalatha, learned counsel for the Revenue, says that the question of law, as extracted above, stands covered by the judgment of the Supreme Court in the matter of Ramala Sahkari Chini Mills Limited, U.P. V. Commissioner of Central Excise, Meerut-I, 2010 (260) E.L.T. 321 (SC).

4. As a matter of fact, this view has also been followed by another Division Bench of this Court in the judgment dated 08.12.2016, passed in C.M.A.No.2586 of 2016, titled : Commissioner of Central Excise III V. M/s.Visteon Automotive Systems India (P) Limited.

5. Accordingly, the appeal filed by the Revenue is dismissed. The impugned judgment is sustained. The question of law, as framed, is answered in favour of the Assessee and against the Revenue.

6. There shall, however, be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

gg Sub Assistant Registrar

To

The Customs, Excise and Service Tax Appellate Tribunal,
South Zone Bench, Shastri Bhavan Annexe,
I Floor, 26, Haddows Road,
Chennai-600 006.

+1cc to Mr.S.Jaikumar, Advocate, S.R.No.41476

C.M.A.No.738 of 2016

VGII(CO)
RS(28/06/2017)