

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL, MUMBAI**

REGIONAL BENCH - COURT NO. I

**Excise Appeal No. 88226 of 2019**

(Arising out of Order-in-Appeal No. NSK/EXCUS/000APPL/147/19-20 dated 13.09.2019 passed by the Commissioner of CGST Central Excise & (Appeals), Nashik)

**M/s Bhairavnath Sugar Works Ltd.**

**.... Appellant**

S. No. 68, Jamkhed Road, Sonari, Tq. Paranda,  
Dist. Osmanabad – 413502.

Versus

**Commissioner of Central GST, Excise &  
Service Tax**

**.... Respondent**

N-5, Town Centre, CIDCO, Aurangabad-431003.

Appearance:

Shri Anant Devakate, Advocate for the Appellant

Shri Amrendra Kumar Jha, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. A/85359/2023**

Date of Hearing: 02.03.2023

Date of Decision: 02.03.2023

***Per: Anil G. Shakkarwar***

In present case the appellant is manufacturer of sugar and the manufacturing unit is situated in District - Osmanabad (which is now renamed as Dharashiv). Appellant have taken CENVAT Credit of Service Tax paid on renting of immovable property service in respect of office at Pune. It appeared to Revenue that the said input service is not covered for availment of CENVAT Credit under definition of 'input service' under Rule 2(I) of CENVAT Credit Rules, 2004. Therefore, proceedings were initiated to

recover CENVAT Credit of Rs. 33,10,037/- for the period from 01.04.2016 to 30.06.2017. The original authority confirmed the demand holding that the appellants were using the said premises for their accounts office. The learned Commissioner (Appeals) did not interfere. Aggrieved by the impugned order, appellant is before this Tribunal.

2. Learned Counsel for the appellant has submitted that the rented premises at Pune is being used as corporate office and is covered by the decision of this Tribunal in the case of Anand R. Power Limited Vs Commissioner (Appeals) decided through Final Order No. A/85141/2020 dated 03.02.2020. He has further submitted that in similar circumstances this Tribunal through the said Final Order dated 03.02.2020 has allowed CENVAT Credit when the premises taken on rent was away from the place of manufacture.

3. Learned AR has submitted that the Order-in-Original and Order-in-Appeal are very clearly indicating that there is no nexus between the premises at Pune with manufacture and therefore, the CENVAT Credit is not admissible.

4. I have carefully gone through the records of the case and submissions made. I have also gone through Final Order No. A/85141/2020 dated 03.02.2020. I find from the said Final Order wherein it was held that CENVAT Credit was admissible because the rented premises were used for marketing purpose. I do not find any similar finding in the present case that the premises taken

on rent in Pune is used for marketing purpose. The learned original authority has held that such premise is used for accounts purpose. Therefore, I hold that said Final Order is not squarely applicable to the present case. The appellant could not make out a case for allowing the CENVAT Credit in dispute. I, therefore, do not interfere with the impugned order.

5. Appeal is rejected.

(Order dictated and pronounced in open court)

**(Anil G. Shakkarwar)**  
**Member (Technical)**

Sinha