Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

Excise Appeal No. 11197 of 2018

(Arising out of OIA-CCESA-SRT-APPEAL-PS-353-2017-18 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

M/s. Grauer & Weil I Ltd **.......Appellant**
Plot No. 244/4/3, Dadra-Demni Road, Vill-Dadra,
Plot No. 10, Survey No. 215/1, Village- Dadra,
Silvassa, Dadra & Nagar Haveli (Ut).

VERSUS

C.C.E. & S.T.-Daman **......Respondent**
3rd Floor...Adarsh Dham Building, Vapi-Daman Road,
Vapi, Opp.Vapi Town Police Station,
Vapi, Gujarat-396191

APPEARANCE:
Sh. Manoj Chauhan, Advocate for the Appellant
Sh. T.K. Sikdar, Authorised representative for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR

Final Order No. A/ 11138 /2019

DATE OF HEARING: 12.07.2019
DATE OF DECISION:12.07.2019

RAMESH NAIR

The issue involved is that whether the appellant is entitled for the cenvat credit in respect of services received by them for repair and maintenance of their head office as claimed by them.

2. Sh. Manoj Chauhan, Ld. C.A. appearing on behalf of the appellant submits that the entire services is of repair, maintenance for the existing building of their head office which is admissible for cenvat credit even after 01.04.2011. on query he fairly concedes that the invoices of services were not submitted before the lower authorities.

3. Sh. T.K. Sikdar, Ld. Assistant Commissioner (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order. He pointed out that the appellant have not raised the issue regarding nature of service however their entire defense before the lower authority was that the Jurisdictional Officer was not competent to raise

the demand whereas the demand should have been raised by the Jurisdictional Officer of the head office who distributed the inputs service credit. Therefore, the issue that whether it is a construction service or repair or maintenance was raised first time.

4. Heard both the sides and perused the records. I find that the issue regarding the nature of service that whether it is for a new construction or for repair and maintenance have not been verified by the lower authority as the appellant have not submitted invoices and other documents. I am of the view that if the service is for repair and maintenance it is clearly covered under the inclusion clause of the definition of input service provided under Rule 2(l) of the Cenvat Credit Rules, 2004, however the factual aspect needs to be verified that whether it is for new construction or for existing old construction and thereafter it can be ascertained that whether the services are of new construction or repair maintenance, accordingly, the admissibility of cenvat credit can be decided. With the above observation, I set aside the impugned order and remand the matter to the adjudicating authority.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

Neha