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

REGIONAL BENCH - COURT NO. 3

Excise Appeal No. 13121 of 2018

[Arising out of Order-in-Appeal No OIA-VAD-EXCUS-002-APP-317-2018-19 dated 31.08.2018 passed by Commissioner (Appeal) of Central Excise & ST, Vadodara]

Heubach Colour Pvt Limited **.... Appellant**
Plot No. 9002-9010, Phase-vi,
GIDC, Ankleshwar,
BHARUCH, GUJARAT

VERSUS

Commissioner of Central Excise & ST, Vadodara .... Respondent
1ST FLOOR... ROOM NO.101,
NEW CENTRAL EXCISE
BUILDING, VADODARA,
GUJARAT-390023

APPEARANCE :

Ms. Priyanka Kalwani, Advocate for the Appellant
Shri S.N. Gohil, Superintendent (AR) for the Respondent

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

FINAL ORDER NO. A/11444 / 2019

DATE OF HEARING/ DECISION : 01.08.2019

RAMESH NAIR :

The issue involved is that whether the appellant is entitled for Cenvat credit in respect of banking and other financial services used in connection with export of their finished excisable goods.

2. Ms. Priyanka Kalwani, Ld. Counsel appearing on behalf of the appellant at the outset submits that the very same issue has been decided in their favour by this Tribunal vide order No. A/11782/2015 dated 04.12.2015 and A/10416/2017 dated 17.02.2017.

3. Shri S.N. Gohil, Ld. Superintendent (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order. He submits that these banking and financial services are in relation to export of the goods i.e. for warehousing and payments made to clearing and forwarding services, therefore, it is beyond the place of removal. Therefore, as per the definition of Input Service under Rule 2(l) of Cenvat Credit Rules, 2004, credit is not admissible.

4. Heard both sides and perused the record. I find that the issue has been considered by this Tribunal in the appellant's own case and in order No. A/11782/2015 dated 04.12.2015, wherein the Tribunal has passed the following order:-

> **"2.** Heard both sides. Learned Authorised Representative for Revenue takes us through the grounds of appeal and submits that Banking and other Financial Services cannot be treated as input services as it has no nexus with the "Manufacture" of the goods of the Respondent. Therefore, CENVAT credit of service tax charged on Banking and other Financial services cannot be taken as credit. On the other hand learned Counsel appearing for the respondents submits that the definition of input service clearly defines to mean that any service — "used by the manufacturer whether directly or indirectly in or in relation to the manufacture of final product and clearance of final products from the place of removal and includes services used in relation to ….. ….. ….. activities relating to business, such as accounting, auditing, financing, ... …. …." He, therefore, contends that services of Banking and other Financial services, are clearly included in the said definition of "input service". He also relied upon the decisions of Tribunal, in the case of *CCE, Surat vs. Vishal Malleables Limited — 2013 (287) ELT 234 (Tri. Ahmd.) and CEE, ST & Cus., Bangalore vs. J.K. Fabrics (Bangalore) Pvt. Limited — 2015 (39) STR 315 (Tri. Bang.).*
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> **3.** On consideration of the arguments of both sides and perusal of the records, we find that the issue is no more res-integra. This very of the Tribunal, has held that Banking and other Financial services will be covered under the definition of "Input Service" and CENVAT credit of service tax paid on the same would be eligible as credit for the manufacture of goods, especially when they are 100% EOU. For better appreciation, Para -7 of the decision of the Tribunal in the case of *CCE, Surat vs. Vishal Malleables Limited (supra)* is reproduced below:-
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> > ***"7.** It can be seen from the above reproduction that the first appellate authority has taken a view, which is in consonance with the law and it is undisputed that the said bank commission charges are in respect of business of the appellant. The co-ordinate Bench of the Tribunal in the case of Jeans Knit Pvt. Limited (supra) (wherein I was one of the Member), had considered this issue in detail for the purpose of refund - of such amount on the goods which are exported. In my view, the ratio laid down by the decision in the case of Jeans Knit Put. (td., is the ratio followed by the first appellate authority in coming to*

> *conclusion that if the goods are exported, refund of Service Tax on the services which are used in relation to the goods exported, needs to be refunded. I also find that the said decision was followed by the co-ordinate bench of the Tribunal in the case of JSW Steel Limited (supra) wherein various other decisions ware also followed and case was decided in favour of the assessee. In my considered view, the issue is no more res integra."*
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> **4.** In view of the above analysis, we find no reason to interfere with the impugned order of Commissioner (Appeals) and the same is upheld.
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> **5.** Revenue's appeal is dismissed.**"**

5. In view of the above decision of the Tribunal, as the issue is absolutely identical and the Tribunal has considered various judgments and held that banking and financial services are Input Services and credit is admissible. Following the above ratio, the impugned order is set-aside and the appeal is allowed.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

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