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

REGIONAL BENCH - COURT NO. 3

Excise Appeal No. 13150 of 2018

[Arising out of Order-in-Appeal No OIA-VAD-EXCUS-002-APP-367-2018-19 dated 14.09.2018 passed by Commissioner (Appeal) of Central Excise & ST, Vadodara]

Gujarat Borosil Limited .... **Appellant**
Ankleshwar, Rajpipla Road, Vill-
Govali, Taluka- Jhagadia
BHARUCH, GUJARAT-393001.

VERSUS

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

WITH

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NEW CENTRAL EXCISE
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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/11457-11458 / 2019

DATE OF HEARING/ DECISION : 01.08.2019

RAMESH NAIR :

The issue involved is whether the appellant are entitled for Cenvat credit in respect of telephone/ mobile services, rent-a-cab and canteen services.

2. Ms. Priyanka Kalwani, Ld. Counsel appearing on behalf of the appellants submit that as regard the rent-a-cab and canteen services the appellant is not contesting as the demand amount along with interest and penalty has already been paid. As regards the telephone service installed in the factory and the mobile phones used by the employees, are in the name of Company, therefore, it is Input Service as held in various judgments as cited below:-

(a) CCE vs. Excel Crop Care Limited - 2008 (12) STR436 (Guj.)

(b) Kandla Port Trust vs. CCE - 2019 (1) TMI 185-CESTAT Ahmedabad

(c) ISPL Steel Pvt. Limited vs. CCE - 2018 (363) ELT 1173 (Tri.)

(d) Baheti Agri Links vs. CCE - 2018 (8) TMI 958- CESTAT New Delhi

(e) Cubex Tubings Limited vs. CCE - 2016 (9) TMI 137-CESTAT Hyderabad

(f) The India Cement Limited vs. CCE 2016 (5) TMI 1001 - CESTAT Chennai

(g) Cochin International Airport Limited vs. CCE - 2017 (8) TMI 633 - CESTAT Bangalore

She also submits that in their own case, this Tribunal decided the admissibility of the Cenvat credit in the order No. A/10031/2018 dated 04.01.2018.

3. Shri S.N. Gohil, Ld. Superintendent (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. Heard both sides and perused the record. The issue as regards the admissibility of Cenvat credit on rent-a-cab and canteen service, the appellant is not contesting as they have already paid along with interest and penalty. Accordingly, the amount already paid by the appellant is maintained and upheld. As regards the Cenvat credit on telephone, there is no dispute that telephone is installed in the factory of the appellant and the same is used by the staff for the factory activities. As regards the mobile phones used by the employees, the bills of the telephone/ mobiles are in the name of the Company. In various judgments cited by the ld. Counsel, the Cenvat credit in respect of telephone/ mobiles has been considered and held that credit is admissible. In the appellant's own case, in the order dated 04.01.2018, the credit on telephone was allowed following the judgment of Hon'ble Gujarat High Court in the case of CCE vs. Excel Crop Care Limited (supra) and Hon'ble Bombay High Court in the case of Ultratech Cement Limited – 2010 (20) STR 577 (Bom.). Therefore, the issue relating to admissibility of Cenvat credit on telephone/ mobiles is no longer res-integra. Accordingly, the impugned orders are modified to the above extent.

Appeal No. E/13151/2018 is allowed and Appeal No. E/13150/2018 is partly allowed.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

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