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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.12491 of 2019
(Arising out of OIA-VAD-EXCUS-001-APP-120-2019-20 dated 11/06/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

Power Build Pvt Ltd **........Appellant**
Anand Sojitra Road, V.V. Nagar
ANAND, GUJARAT

VERSUS

C.C.E. & S.T.-Vadodara-I **.......Respondent**
1st Floor...Central Excise Building,
Race Course Circle,
Vadodara, Gujarat-390007

WITH

Excise Appeal No.12985 of 2019

(Arising out of OIA-VAD-EXCUS-001-APP-120-2019-20 dated 11/06/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

Power Build Pvt Ltd **........Appellant**
Anand Sojitra Road, V.V. Nagar
ANAND, GUJARAT

VERSUS

C.C.E. & S.T.-Vadodara-I **.......Respondent**
1st Floor...Central Excise Building,
Race Course Circle,
Vadodara, Gujarat-390007

APPEARANCE:
Sh. Mrugesh Pandya (Adv.) for the Appellant
Sh. Sharad Airan, Assistant Commissioner (AR) for the Respondent

CORAM: HON'BLE MEMBER (TECHNICAL), MR. RAJU

Final Order No. A/ 11290-11291 /2020

DATE OF HEARING: 05.11.2020
DATE OF DECISION: 05.11.2020

Raju

These appeal have been filed by the appellant against the denial of the Cenvat credit of gardening services availed by them. The appellants are engaged in manufacturing of gear motors. The appellant have been availing the Cenvat credit of gardening services which have been denied by the

Revenue. Learned Counsel for the appellant argued that in their own case the Tribunal vide order No. A/10508-10509/2017 dated 07.02.2017 has allowed the benefit of similar services namely man power for gardening. He further argued that the Hon'ble High Court of Karnataka in the case of CCE, Bangalore Vs. Millipore India Pvt. Ltd.-2012 (26) STR 514 (Karnataka High Court) has also allowed the Cenvat credit in similar circumstances on the gardening services.

2. Learned (AR) relied on the impugned orders. He argued that the definition has changed since 01.04.2011 and again from 01.04.12. He pointed out that the previous decision of Tribunal in the case of appellant dated 07.02.2017 relates to period prior to the said amendment.

3. He pointed out that the word relating to business have been related from the definition of the input service since 01.04.2012. and hence the gardening service will not be covered under definition of input.

4. Heard both the sides and considered the rival submissions. I find that in appellant's own case vide order No. A/10508-10509/2017 dated 07.02.2017 following has been observed by Tribunal in para 6

> "6. I find that eligibility of CENVAT Credit on Service Tax paid in relation to "Outdoor catering" service and "Manpower for Garden Maintenance Service" fall under the scope of "Input Service" as defined under Rule 2(l) of the Cenvat Credit Rules 2004 in view of the Judgment of Hon'ble Gujrat High Court in M/s Feromatik Milacrom (I) Ltd's case and Hon'ble Karnatak High Court in M/s Millipore India Pvt Ltd (supra), respectively. In the result, the impugned order is set aside and the appeals are allowed with consequential relief, if any, as per law."

5. Learned (AR) has argued that this order pertains to Period prior to the amendment in definition of input services made in year 2011 and 2012. On this point Learned Counsel pointed out that they have another order in their own case in their favour vide order no. A/11731/2017 dated 31.07.2017 which pertains the period after the year 2012.

6. I also find that Hon'ble High Court of Karnataka in case of CCE, Bangalore Vs. Millipore India Pvt. Ltd.-2012 (26) STR 514 (Karnataka High

Court) Private Limited 2012 (26) STR 514 (Tri. Karnataka) has observed following in para 7:-

> "7. That apart, the definition of input services is too broad. It is an inclusive definition. What is contained in the definition is only illustrative in nature. Activities relating to business and any services rendered in connection there- with would form part of the input services. The medical benefit extended to the employees, insurance policy to cover the risk of accidents to the vehicle as well as the person, certainly would be a part of the salary paid to the employees. Landscaping of factory or garden certainly would fall within the concept of modernization, renovation, repair, etc., of the office premises. At any rate, the credit rating of an industry is dependent upon how the factory is maintained inside and outside the premises. The environmental law expects the employer to keep the factory without contravening any of those laws. That apart, how the concept of corporate social responsibility is also relevant. It is to discharge a statutory obligation, when the employer spends money to maintain their factory premises in an eco-friendly, manner, certainly, the tax paid on such services would form part of the costs of the final products. In those circumstances, the Tribunal was right in holding that the service tax paid in all these cases would fall within the input services and the assessee is entitled to the benefit thereof . In that view of the matter, we do not see any infirmity in the order passed by the tribunal. Accordingly the substantial questions framed in this appeal are answered in favour of the assessee and against the revenue. The appeal is dismissed. "

7. Thus, the compliance of various environment related laws and factories act mandate clean environment in factory. Thus, the said service becomes essential for functioning of the factory. In view of the above, I find that the impugned order cannot be sustained at the same is set aside, the appeals are allowed.

(Dictated and pronounced in the open court)

(RAJU)
MEMBER (TECHNICAL)

Prachi