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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.10407 of 2019

(Arising out of OIA-VAD-EXCUS-001-APP-442-2018-19 dated 26/10/2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

Transpek Industry Ltd **......Appellant**
Ekabara, Ecp Road, Taluka: Padra
Vadodara, Gujarat

VERSUS

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

APPEARANCE:
Shri Saurabh Dixit, Advocate for the Appellant
Shri Vinod Lukose, Superintendent (AR) for the Respondent

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

Final Order No. A/ 12483 /2021

DATE OF HEARING: 02.11.2021
DATE OF DECISION: 02.11.2021

RAJU

This appeal has been filed by M/s Transpek Industry Ltd against denial of credit on certain services received by the appellant, demand of interest and imposition of penalty.

2. Learned Counsel for the appellant argued that all these services are covered under the definition of input service. However, he conceded that the services used for the civil work for Cricket Ground may not be included in the said definition. He pointed out that all other services were availed prior to March 2011 when the definition of these input services included the services availed in setting up of new premises and also services availed in repair and renovation thereof.

2.1 He further pointed out that all these work has been done within the registered premises of the factory and none of these has taken place outside the factory premises. It was pointed that because certain invoices contained a description which referred some construction work at "new land" which the revenue treated to be other than registered premises.

3. Learned AR relies on the impugned order.

4. I have considered the rival submissions. I find that certain construction activities have taken place within the factory premises and they are in the nature of civil work for gate area road, Civil work for sprink system, Civil work for office area, Civil work for kitchen garden, Civil work for contractor room, Civil work for rain protection, Civil work for hospital and safety office etc. which are all in the nature of input services and credit for the same cannot be denied. There are some entries for civil work for new land and the Learned Counsel has clarify that the new land falls within the registered premises of the appellant. It is seen that work in new land also relates to the Civil work for Administrative office , civil work for excise/ Marketing and building. It is seen that all these activities would be covered by the definition of Input services.

4.1 The second category of the services on which credit has been sought to be denied are cutting dismantling, shifting of old structures and fabrication. Learned counsel pointed out that all these activities was undertaken for construction of new building and factory premises for the manufacture of goods and therefore, are covered by the definition of Input services. There is no evidence shown otherwise and therefore, the credit of same cannot be denied.

4.2 In view of the above the appeal is allowed except for the credit relating to Civil work for Cricket Ground which the learned counsel conceded.

The interest in respect of said demand is also upheld. However, the penalty in respect of the said demand is set aside as the technical issue are involved and therefore, no malafide could be attributed.

5. Appeal is partially allowed in the above terms.

(Dictated and Pronounced in the open court)

RAJU
MEMBER(TECHNICAL)

Prachi