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

REGIONAL BENCH- COURT NO.3

**Excise Appeal No.10561 of 2019**

(Arising out of OIA-VAD-EXCUS-002-APP-477-2018-19 dated 30/11/2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

**Upl Ltd** **......Appellant**

Formerly Known As United Phosphorus Ltd
Upl House Vishwas Bldg Plot Cst No 610-B/2 H/E Eard Western Express Highway Near Teachers Colony Off Ali Yavar Jung Marg Bandra East, Mumbai, Maharashtra

*VERSUS*

**C.C.E. & S.T.-Vadodara-ii** **.........Respondent**

1st Floor... Room No.101,New Central Excise Building, Vadodara, Gujarat -390023

**APPEARANCE:**

Shri Prakash Shah, Advocate appeared for the Appellant
Shri Ghanshyam Soni, Joint Commissioner (Authorized Representative) for the Respondent

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

**Final Order No . A/ 10099 /2022**

DATE OF HEARING: 03.02.2022
DATE OF DECISION: 03.02.2022

**RAMESH NAIR**

The issue involved in the present case is that whether the appellant is entitled for Cenvat Credit in respect of service tax paid on Supply of Tangible Goods services i.e. Hiring forklifts for use of handling the material within the factory.

2. Shri Prakash Shah, Learned counsel appearing on behalf of the appellant submits that the lower authorities have denied the Cenvat Credit on on the ground that the Supply of Tangible Goods service does not find place in definition of Input service provided under Rule 2 (l) of the Cenvat Credit Rules, 2004, particularly, the same is not included in the inclusion clause of definition of input service, it is submitted that the Forklift which was taken on hire under Supply of Tangible Goods services was used in the factory premises for handling the material in relation to manufacture of final product. Therefore, it is very much covered

under the definition of input services. He placed reliance on the following judgments:

- LARSEN & TOURBO LTD- 2018 (363) 1103 – (Tri. Mumbai)
- DBOI GLOBAL SERVICES PVT. LTD- 2017 (48) STR 157 (Tri. Mumbai)

3. Shri Ghanshyam Soni, Learned Joint Commissioner (AR) appearing on behalf of the revenue reiterates the finding of the impugned order.

4. I have carefully considered the submissions made by both sides and perused the records. The contention of the revenue is not correct in as much as it contends that the Supply of Tangible Goods service is not falling under definition of Input service in terms of Rule 2(l) of Cenvat credit Rules, 2004. Though, I agree that it does not appear in the inclusion clause of definition however, the main clause of definition is very wide. There is no dispute that the Forklift which is taken on hire under Supply of Tangible Goods service are indeed used for handling all the material which is the part and parcel of process of manufacturing the final product within the factory. Therefore, in my considered view the forklift which is taken on hire is directly used for the activity of manufacturing of final product.

4.1 The identical issue has been considered by this Tribunal in the case of LARSEN & TOURBO LTD wherein the Cenvat Credit in respect of supply for tangible goods service has been allowed. Similarly, in the case of DBOI GLOBAL SERVICES PVT. LTD the credit on Supply of Tangible Goods service i.e. in respect of electronic equipments has been decided in the favour of the assessee. Therefore, I am of the view that the appellant is entitled for Cenvat Credit in respect of Supply of Tangible Goods services.

5. Accordingly, the impugned order is set aside. Appeal is allowed.

(Dictated & pronounced in the open court )

**(RAMESH NAIR)**
**(MEMBER JUDICIAL)**

Geeta