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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.12277 of 2019

(Arising out of OIA-VAD-EXCUS-002-APP-238-2019-20 dated 31/07/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-II)

Technip India Limited **......Appellant**
Plot No. D-2/3/2, Village-Suva, Behind Gnfc, Gidc Estate, Dahej-II Ta. Vagra
Bharuch, Gujarat

VERSUS

C.C.E. & S.T.-Vadodara-ii **.........Respondent**
1st Floor... Room No.101,
New Central Excise Building,
Vadodara, Gujarat – 390023

<u>APPEARANCE:</u>
None appeared for the Appellant
Shri J.A Patel, Superintendent (AR) for the Respondent

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

Final Order No. <u>A/ 10532 /2022</u>

DATE OF HEARING: 19.05.2022
DATE OF DECISION: 19.05.2022

<u>RAMESH NAIR</u>

When the matter was called out none appeared on behalf of the appellant despite notice, therefore the appeal is taken up for disposal.

2. The facts of the case are that the appellant have received the services of fabrication of Heaters Parts & APH System including piping & Testing for crude Charge Heater & Naptha Splitter at Dahej manufacturing yard. The case of the department is that this activity is related to setting up of the factory of the appellant. This contention of the department is based on the description of service mentioned on the bottom of invoice i.e. "Capital Work". The contention of the department is that since services received for setting up of the factory which was earlier included in the inclusion clause of the definition of Input Services has been subsequently removed on 01.04.2011 therefore the appellant is not entitled for the cenvat credit.

3. Shri J.A Patel Learned Superintendent (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order.

4. On careful consideration of the submission made by Learned AR and perusal of records, I find that as per the submission made in the appeal memo the description given on the body of the invoice clearly shows that services are for the purpose of fabrication of parts of capital goods and as per the documents submitted by the appellant this parts are manufactured

goods of the appellant and the same were exported. Despite explaining about these details along with documents both the lower authorities were stuck to the description mentioned in the invoice i.e., "Capital Work". Even from that description it cannot be ascertained the nature of the services however, both the lower authorities have not given any heed to detailed submission made by the appellant that the services is not for the purpose of setting up of the factory but it is for the fabrication of the parts of capital goods. In this fact the basis for denying the cenvat credit is absolutely wrong. Accordingly, the demand made by the lower authorities is not sustainable.

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

(Dictated & Pronounced in the open court)

RAMESH NAIR
MEMBER (JUDICIAL)

Geeta