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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.12031 of 2019

(Arising out of OIA-VAD-EXCUS-001-APP-77-2019-20 dated 28/05/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

Duravit India Pvt Ltd **......Appellant**

Village: Indranaj, Taluka : Tarapur,
Anand, Gujarat

VERSUS

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

1st Floor...Central Excise Building,
Race Course Circle,
Vadodara, Gujarat - 390007

APPEARANCE:

Shri Dhaval Shah, Advocate for the Appellant
Shri J.A Patel, Superintendent (AR) for the Respondent

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

Final Order No. A/ 10531 /2022

DATE OF HEARING: 19.05.2022
DATE OF DECISION: 19.05.2022

RAMESH NAIR

The issue involved is whether the appellant is entitled for Cenvat credit in respect of input services namely Hotel Accommodation Service and Air Travel Agent Service.

2. Shri Dhaval Shah, Learned Counsel appearing on behalf of the appellant submits that on this issue there are various judgment passed by this Tribunal. Particularly, in appellant's own case in order no. A/12030/2017 dated 16.08.2017, this Tribunal has allowed the credit on the same services.

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

4. I have carefully considered the submission made by both sides and perused the records. I find that the appellant relied upon the following judgments:

- Duravit India Ltd Vs. Comm. C. Ex & Customs, Anand Order No. A/12030/2017 Dated 16.08.2017

- Inox India Pvt. Ltd Vs. CCE & ST, Vadodara -2021 (7) TMI 551 - CESTAT Ahmedabad

- M/s. Unique Chemical Vs. CCE & ST., Vadodara- 2019 (9) TMI 1137-CESTAT Ahmedabad

- Huber Group India Pvt. Ltd Vs. CCE & ST., Surat – I- 2019 (6) TMI 185 - CESTAT Ahmedabad

- Savita Oil Technologies Pvt. Ltd Vs. CCE., Belapur- 2017 (12) TMI 1183-CESTAT Mumbai

From the above judgments, it is clear that Hotel Accommodation Service and Air Travel Agent Service are admissible input services. In the appellant's own case for the same services this tribunal has passed the following order:

> *"This appeal is filed against OIA-VAD-EXCUS-003-APP-053-2016-17 dt 29.4.2016 passed by the Commissioner of Central Excise and Service Tax (Appeals) -ANAND.*
>
> *2. The short issue involved in this appeal for determination relates to eligibility of CENVAT Credit of the Service Tax paid on 'Air Travel Agents' service and ' Hotel Accommodation' services used for sale/marketing of the manufactured goods.*
>
> *3. The Ld Advocate for the appellants submits that the aforesaid services has been held to be an 'Input Services' as defined under Rule 2(l) of the Cenvat Credit Rules 2004 and submits that the issue of eligibility of credit on the afore said services are covered by judgment in the case of Adani Port & Special Economic Zone Ltd. Vs C.S.T., Ahmedabad - 2016(42)STR.1010 (Tri Ahmd) and Abacus Distribution Systems (I) Pvt Ltd vs CST, Mumbai - 2015(40)STR.190 (Tri.-Mumbai) respectively.*
>
> *5. Ld. A.R for the revenue could not place any judgement contrary to the above judgments.*
>
> *6. I find that in the aforesaid judgments, the disputed services on which credit availed, have been held to be 'input service', as defined under Rule 2(l) of CCR,2004 and accordingly the service tax paid on such services are held to be admissible to Credit. No contrary evidence to the Appellant's claim that these services have been used for sales/marketing of the manufactured goods, is produced by the department. In these circumstances, following the aforesaid judgements, I do not see any merit in the impugned order, accordingly,*

the same is set aside and the appeal is allowed, with consequential relief, if any as per law."

5. In view of the aforesaid decision of this tribunal the issue is no longer res-Integra as the same has been decided in the favour of the appellant. Accordingly, the impugned order is set aside and appeal is allowed.

(Dictated & Pronounced in the open court)

RAMESH NAIR
MEMBER (JUDICIAL)

Geeta