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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.12609 of 2019

(Arising out of OIA-CCESA-SRT-APPEAL-PS-270-2019-20 dated 31/07/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

AMBUJA CEMENTS LIMITED **.........Appellant**
Near Abg Ship Yard, Magdalla Port Road,
Village-Gavier,
Taluka: Choryasi
Surat,
Gujarat

VERSUS

C.C.E. & S.T.-SURAT-I **.........Respondent**
New Building...Opp. Gandhi Baug,
Chowk Bazar,
Surat,
Gujarat-395001

WITH

i. **Excise Appeal No. 12610 of 2019 (Ambuja Cement Ltd)**
ii. **Excise Appeal No. 12888 of 2019(Ambuja Cement Ltd)**
iii. **Excise Appeal No. 12889 of 2019 (Ambuja Cement Ltd)**

APPEARANCE:
Sh. Ishan Bhatt, Advocate for the Appellant
Sh. Vinod Lukose, Superintendent (Authorized representative) for the Respondent

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

Final Order No. A/ 10548-10551 /2022

DATE OF HEARING: 18.05.2022
DATE OF DECISION:18.05.2022

RAMESH NAIR

The issue involved is that weather the appellant are entitled for the cenvat credit in respect of following services:

(1)Cleaning & Forwarding Agency Services

(2) Maintenance and Repair Services.

(3) Business Auxiliary Services

(4) Operation and Maintenance of Fly Ash System situated at Ukai Thermal Power Station

(5)AMC Services

(6) Management Consulting Engineering and Security Service for Wind Mill Operation Credit on all the above Services have been denied by the learned Commissioner on the ground that these services have no nexus with the manufacturing activity of the appellant.

2. Shri Ishan Bhatt, Learned Counsel appearing on behalf of the appellant submits that all these services are directly or indirectly related to manufacturing of the final product of the appellant. As regard the service of Clearing & Forwarding Agency Services, it is related to loading/unloading of goods at the premises of C & F Agent which is the place of removal. As per definition of input service, services for clearance of goods upto the place of removal are admissible input service. As regard Maintenance and Repair Service, Business Auxiliary Services and Operation and Maintenance Service related to Fly Ash System, he submits that the credit was denied on the ground that these services were used outside the factory at Ukai Thermal Power Station. He submits that these services are used for generation of electricity which in turn used by the appellant in the manufacture of final product. Therefore, the credit is admissible. As regard the input services namely AMC services, Management Consultancy Services, Consulting Engineering and Security Agency Services for windmill operations, he placed reliance on the various judgments on each services in dispute and submits that as per the judgments, the credit is admissible and the issue is no longer res-integra. As regard the services like (1)Housekeeping Services for Cleaning Toilets and Office premises at plant, (2)Garden Maintenance services for gardens maintained in the factory premises and Pest Control Services, (3)Rodent Control, (4)Termite Control in plant as well as various ships used for carrying cement. He submits that all this services were used in relation to manufacture of final product in the factory premises. Therefore, it is admissible.

3. Shri Vinod Lukose, Learned Superintendent (Authorized Representative) appearing on behalf of the revenue reiterates the finding of the impugned order.

4. I have carefully considered the submissions made by both the sides and perused the records. I find that the use of the services are not in dispute. As regard the C & F agency services the same was disallowed on the ground that the same was used beyond the factory premises. However, the C & F Agency's premises is a place of removal and the services received at place of removal should be treated as services received upto the place of removal. Accordingly, the credit is clearly admissible and this is supported by the following judgments:

- CCE v. Rajasthan State Chemical Works 1991 (55) ELT 444 (SC)
- Union of India v. Ahmedabad Electricity Co. Ltd. 2003 (158) ELT 3 (SC)
- Doypack Systems Pvt. Ltd. v. Union India 1998 (36) ELT 201 (SC)
- CCE v. Solaris Chemtech Ltd. 2007 (214) ELT 481 (SC)
- JK Cotton & Weaving Mills Ltd. 1997 (91) ELT 34 (SC)
- Union Carbide India Ltd. V. CCE, Calcutta 1996 (86) ELT 613 (Tribunal)

As regard the services received at Thermal Power Station the services were received for the purpose of generation of electricity and electricity in term used by the appellant in manufacture of final product. Therefore, there is direct nexus of the services with the manufacturing activity. Merely because the services were received outside the factory premises, the credit cannot be disallowed so long it is used in the manufacture of final product. The similar view is applicable in case of the services received for the purpose of windmill services located outside the factory. As regard the services namely Housekeeping Services for Cleaning Toilets and Office premises at plant, Garden Maintenance services, Pest Control Services. I find that all these services are essentially used in the factory in over all operation of the manufacturing activity. Therefore, the cenvat credit is admissible on these services. All these services have been held admissible input service in various judgments the same are cited below for following services.

Credit of service tax paid for clearing and forwarding agency services used for clearance of goods shall fall within the definition of Input Services

- CCE, Ahmedabad v. Cadila Healthcare Ltd. -2013 (30) STR 3 (Guj.)
- Ramco Cements Ltd. v. CCE, Chennai 2017 (3) GSTL 145 (Tri- Chennai)
- Commissioner v. Dynamic Industries Ltd. 2014 (307) ELT 15 (Guj)
- Cadila healthcare Ltd. v. CCE, Ahmedabad- 2010 (17) STR 134 (Tri-Ahmd.)
- Sundaram Clayton Ltd. v. CCE, Chennai- 2016 (42) STR 741 (Tri.-Chennai)
- CCE & ST v. Nutrine Confectionary Co, Ltd.- 2015 (39) STR 866 (Tri-Banglore)
- Gujarat Insecticides Ltd. v. CCE & ST Excise Appeal No. 12834 of 2018

Credit of service tax paid on erection, installation & commissioning, repair and maintenance of fly-ash extraction plant is available

- Vikram Cement v CCE -2006 (197) ELT 145 (SC)
- CCE v Ambuja Cement Ltd.-2015 (1) TMI 543
- Birla Corporation Ltd v CCE - 2014 (34) STR 589 (Tri-Delhi)
- CCE & ST v Ultratech Cement-2018 (18) GSTL 220 (MP)
- CCE v Birla Corporation Ltd.-2015 (316) ELT 169 (Tri-Delhi)
- CCE v Ultratech Cement Ltd 2012 (278) ELT 523 (Tri-Mumbai)
- Ultratech Cement Ltd. v. CCE 2014 (34) STR 426 (Tr.- Delhi)

Repair and Maintenance Services used in windmill located outside factory

- CCE Aurangabad v. Endurance Technology Pvt. Ltd. 2017 (52) STR 361 (Bom)
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- Vikram Cement v. CCE 2006 (197) ELT 145 (SC)
- Swiss Glascoate Equipments v. CCE & ST., Vadodara 2022 (3) TMI 47-CESTAT Ahmedabad
- Jayesh Electricals Pvt. Ltd. v. CCE & ST, Vadodara-II- 2019 (10) TMI 1099-CESTAT Ahmedabad
- CCE v. Ashok Leyland Ltd-2019 (369) ELT 162 (Mad

- DCW Ltd. v. CCE- 2016 (332) ELT 142 (Tri-Chennai)
- CCE vs VS Lignite Power Ltd- 2018 (11) GSTL 317 (Tri-Del)
- CCE vs Jindal Aluminium Ltd. - 2017 (5) GSTL 307 (Tri-Bang)
- Jindal Stainless Ltd vs CCE, Rohtak- 2015 (329) ELT 302 (Tri-Del.)
- Parry Engineering & Electronics Pvt. Ltd vs CCE- 2015 (40) STR 243 (Tri-LB)
- Aluminium Powder Co Ltd v CCE 2016 (42) STR 776 (Tri-Chennai)

Credit of service tax paid for repair and maintenance. services used for windmills is available irrespective of the fact that windmill machinery is exempted from payment of excise duty

- ZF Steering Gear (India) Ltd- 2015 (317) ELT 580 (Tn-Mumbai)
- Ballarpur Industries Ltd v CCE, Belgaum- 2000 (116) ELT 312 (Tri-Del)
- Associated Cement Companies Ltd v CCE, Belgaum- 1999 (108) ELT 477 (Tri-Mad)

Credit of Housekeeping Services is available

- Balkrishna Industries Ltd v CCE 2010 (254) ELT 301 (Tn-Mumbai)
- CCE, Bangalore v Millipore India Pvt. Ltd.- 2012 (26) STR 514 (Kar)
- Wipro Ltd v. CCE- 2018 (10) GSTL 172 (Mad)
- Rotork Control (India) Pvt Ltd 2010 (20) STR 684 (Tri-Chennai)

Credit of Pest Control Services is available

- Hinduja Foundries Ltd v CCE- 2017 (52) STR 190 (Tri-Chennai)
- ADC India Communications Ltd. v. CCE- 2012 (283) E.L.T. 415 (Tri. - Bang.)
- Sai Life Sciences Ltd. v. CCE- 2017 (51) STR 55 (Tri-Hyd.)
- Nirma Ltd. v. CCE- 2013 (32) STR 622 (Tri-Ahmd.)

Credit of Garden Maintenance Services is available

- Hindalco Industries Ltd. v. CCE 2019 (3) TMI 300-CESTAT Ahmedabad
- Rane TRW Steering System Ltd. v. Commissioner- 2017 (4) GSTL 133
- Rane TRW Steering System Ltd. vs. Commissioner 2018 (11) GSTL J187 (Mad.)
- CCE v. Lupin Ltd.- 2012 (285) ELT. 221 (Tri. - Mumbai)
- CCE v. Nirma Ltd.- 2012 (277) ELT 207 (Tri-Ahmd.)

In view of the above judgments which covered each and every input services in question the issue is no longer res integra. Following the afore said judgments all the input services in the present case are held to be admissible input services.

5. Accordingly, I set aside the impugned orders and allow the appeals with consequential relief.

(Operative Part of the order is pronounced in the Court)

(Ramesh Nair)
Member (Judicial)

Palak