CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD

REGIONAL BENCH – COURT NO. 03

EXCISE Appeal No. 10144 of 2021

[Arising out of OIA-VAD-EXCUS-001-APP-174-2020-21 dated 15/01/2021 passed by Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]

IDMC LTD **.....Appellant**
Unit 6 Survey No 153/1 157/1 152/2,
Near Chikhodra Crossing Nh No 8 Cikhodra
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 K Shah, Advocate for the Appellant
Shri. Kalpesh P Shah, Superintendent (Authorized Representative) for the Respondent

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

FINAL ORDER NO.A / 10023 /2023

DATE OF HEARING: 05.01.2023
DATE OF DECISION: 05.01.2023

RAJU

This appeal has been filed by M/s. IDMC LTD. against denial of capital goods Cenvat Credit on steel rack used for storage in the premises of the appellant's factory.

2. Learned Counsel argued that the issue is squarely covered by the decision of Tribunal in the case of Sanghi Industries Ltd. vide Final order No. A/10423-10424/2022 dated 10.05.2022.

3. Learned AR relied on the impugned order.

4. I have considered the rival submissions, I find that the issue is squarely covered by the aforesaid decision of Tribunal in the case of Sanghi Industries Ltd(supra), wherein Para 4.5 and 4.6 following has been stated.

> *"4.5 As regard the availment of Credit of Rs. 11,39,646/- availed on furnitures, we find that there is no dispute that the said furnitures are used in guest house and the guest house is part of factory. In Board"s Circular No. 943/4/2011-CX, dated 29-4-2011, it is mentioned that "goods such as furniture and stationery used in an office within the factory are goods used in the factory and are used in relation to the manufacturing, business and hence, the credit on the same is to be allowed".*
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> *4.6 Undisputedly, the guesthouse is used for operations of the factory. Nothing is available on record to show that guesthouse is used for any other purpose. In view of this fact, since guesthouse used for operations of factory which has direct nexus with factory which produces excisable goods therefore Cenvat credit is admissible to the appellant on the furnitures used in Guest House of the factory. We also find that in the case of M/s Agarwal Foundries Vs. Commr. of C. Ex., Cus. & S.T., Hyderabad 2015 (321) E.L.T. 267 (Tri. - Bang.) the Tribunal held as under:*
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>> *"2. After hearing both the sides, I find that in this case air conditioner has been used within the factory in the control panel room to keep the temperature down. There is no dispute that it has been installed in the factory. As regards furniture, the learned counsel relied upon the Board's circular issued by the Board vide Circular No. 943/4/2011-CX., dated 29-4-2011. In the circular it was mentioned that 'goods such as furniture and stationery used in an office within the factory are goods used in the factory and are used in relation to the manufacturing business and hence the credit of same is allowed'. This circular was issued after the amendment of Cenvat Credit Rules specifically denying benefit of Cenvat credit on certain activities which are not at all related to manufacture. The issue before me relates to the period April 2007. According to the definition of 'input' as it existed during the relevant period, inputs used in the factory 'for any other purpose' the credit is admissible. In this case there is no denial of the fact that furniture had been used within the factory. Under the circumstances, I have to hold that appellant is eligible for the benefit of Cenvat credit and I hold so. In the result the appeal is allowed."*

4.1 I further find that the Tribunal in the case of Ashok Leyland John Deere Construction Equipment Co. Pvt. Ltd.-2018 (2) TMI 458 (C. Chennai) has examined this exact issue and observed as followed:

> *"4. I find that thereafter an identical issue has come up before various benches of the Tribunal and the decisions are to effect that storage racks, used for storing the raw materials is an integral part of the final manufacturing activity of the assessee and credit has to be allowed. In the case of M/s. Kosi Plast P. Ltd. Vs Commissioner of Central Excise, Pune reported in 2011 (271) E.L.T. 93 (Tri. - Mumbai), the said decision of the Tribunal in the case of M/s. Bayer Indian Sytans Ltd., (supra) relied upon by -LB), the steel rack used for raw material storage were held to be an integral part of the manufacturing activity and hence cenvatable. To the same effect are some other decisions of the Tribunal in the case of (1) M/s. Welspun India Ltd. Vs Commissioner of Central Excise, Daman reported in 2013 (296) E.L.T. 122 (Tri. -Ahmd.); (ii) M/s. Shree Ramicides Chemicals P. Ltd Vs Commissioner of Central Excise (Service Tax), Tiruchirapalli reported in 2014 (311) E.L.T. 102 (Tri.-Chennai); and (iii) M/s. Parle Products Pvt. Ltd. Vs Commissioner of Central Excise And Service Tax, Bangalore-Ill reported in 2016 (343) E.L.T. 498 (Tri-Bang.)."*

5. Relying on the aforesaid decision, the impugned order is set aside. The appeal is allowed.

(Dictated & Pronounced in the open Court)

(RAJU)
MEMBER (TECHNICAL)

Palak