IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. I

APPEAL No.ST/2833/2012-CU[DB]

(Arising out of Order-in-Appeal No.149/ST/APPL/NOIDA/2012 dated 28/05/2012 passed by Commissioner (Appeals), Customs & Central Excise, Noida)

ST-Ericsson India Private Limited	**Appellant**
Vs.	
C.C. & C.E. & S.T.-Noida	**Respondent**

Appearance:

Shri Nishant Mishra (Adv)	for Appellant
Shri Mohd Altaf Assistant Commissioner (AR),	for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing	:	03/08/2018
Date of Decision	:	03/08/2018

FINAL ORDER NO.71821/2018

Per: Archana Wadhwa

After hearing both the sides duly represented by Shri Nishant Mishra (Adv) for the appellant and Shri Mohd. Altaf, Assistant Commissioner (A.R.) for the Revenue, we note that the appellant, who are engaged in export of I.T. Services, claimed refunds of credit of service tax paid on various input services utilized for such exports.

2. The Original Adjudicating Authority allowed the refund to the extent of around 1.44 crores out of the total claimed amount of Rs.1.51 crores, thus rejecting the refund of Rs.7,47,219/-. The said order of the Original Adjudicating Authority was upheld by Commissioner (Appeals). Hence the present appeal.

3. It is seen that the refund claims were rejected on three grounds-

a. Works relating to taxation and issuing Certificates do not come within the purview of practicing Chartered Accountant and as such cannot be held as input services.

b. Subsequently credit on catering services is not admissible to the assessee.

c. further description of some of the services is not mentioned on the body of the invoices.

4. The Lower Authorities allowed the refund relatable to Chartered Accountant services but rejected the same in respect of catering services and the invoices not being completed.

5. After going through the impugned orders we note that the dispute revolves around the cenvatability of the catering services which have been held to be cenvatable by the larger bench's decision in the case of

Commissioner of Central Excise, Mumbai-V V/s GTC Industries LTD. reported at 2008 (12) S.T.R. 468 (Tri.-LB) as also by various precedent decisions of the Tribunal. We find no justification to hold that the catering services are not cenvatable and as such the credit so availed by the appellant is not refundable to them.

6. As regards the description of the services not being specified in the body of the invoices, Learned Advocate explained that such services were received by their Foreign Service Providers and by paying the service tax on reverse charge basis they have given the full description of the said services along with the accounting number. If that be so, the credit cannot be disallowed to the appellant on the procedural technical issue. Accordingly, we hold that the appellant is entitled to refund of credit in relatable to above two grounds.

7. Learned Advocates further submits that a small amount of Rs.6350 has been denied on the ground that the name of the assessee has been wrongly shown in the invoices issued by the services provider instead of showing the correct name of the appellant. Learned Advocates submits that the amount being on the lower sides, he is not contesting the same. Further refund of

Rs.2,433 denied by the Authorities below is also not being contested.

8. In view of the foregoing the appeal is allowed, except to the extent of Rs.6,350/- & Rs.2,433/-

(Pronounced & Dictated in Court)

Sd/-	Sd/-
(Anil G. Shakkarwar)	**(Archana Wadhwa)**
Member (Technical)	**Member (Judicial)**

Nihal