CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No. 533 of 2011

(Arising out of Order-in-Original No. 24/Commissioner/Meerut-i/2010 dated 14/12/2010 passed by Commissioner of Central Excise, Meerut)

M/s Vodafone Mobile Services, **.....Appellant**

(493, Mangal Pandey Nagar, University Road, Meerut)

VERSUS

Commissioner of Central Excise, Meerut-I **....Respondent**

(Mangal Pandey Nagar, Meerut-I)

APPEARANCE:

Shri B.L. Narasimhan, Advocate for the Appellant
Shri Shiv Pratap Singh, Deputy Commissioner Authorised Representative for the Respondent

CORAM: **HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT**
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO-71379 / 2019

DATE OF HEARING : 16 July, 2019
DATE OF DECISION : 16 July, 2019

PER: ANIL G. SHAKKARWAR

After hearing both the sides duly represented by Shri B.L. Narasimhan learned Advocate on behalf of the appellant and Shri Shiv Pratap Singh, learned Authorised Representative on behalf of Revenue, we note that the issue involved in the present appeal is related to admissibility of three services as input services for providing output services of telecommunication services. The input services in question are Conference/Event

Management Service, Maintenance Service for maintenance of D.G. Sets and Liasoning and Documentation Services. The learned Original Adjudicating Authority has held that these services are not input services, inasmuch as, the conference and Liasoning Management Service is not a service where service tax should have been paid and for D.G. Maintenance Service, D.G. sets were not required for providing output service and in respect of Conference Service it is not an input service for providing telecommunication service.

2. Learned Counsel for appellant has relied upon the decision of Single Member Bench of this Tribunal in their own case in respect of maintenance of D.G. Sets and Liasoning and Documentation Service. The learned Counsel has submitted that the admissibility of said two services has already been decided in favour of the assessee by the Single Member Bench of this Tribunal in the case of Vodafone Essar South Limited Vs Commissioner of Central Excise, Meerut-I reported in 2017 (51) STR 77 (Tri.-All). He has further relied on the Final Order of this Tribunal in the case of Commissioner of Service Tax, Delhi Vs Convergys India Pvt. Ltd. reported in 2009 (16) STR 198 (Tri.-Del) and another decision in the case of Adani Port & Special Economic Zone Ltd. Vs Commissioner of Service Tax, Ahmedabad reported in 2016 (42) STR 1010 (Tri.-Ahmd.). He has further relied on the decision of this Tribunal in the case of Commissioner of Service Tax, Mumbai Vs Essel Corporate Services Pvt. Ltd. reported in 2015 (37) STR 943 (Tri.-Mumbai) and submitted that the Tribunal has consistently held that

maintenance services and Liaisoning Services are essential for caring out the activities for the purpose of providing output services and therefore as provided by definition of input services under Rule 2 (l) of Cenvat Credit Rules, 2004 they are admissible as input service in respect of 'Event Management Service'. Learned Counsel for appellant has relied on the decision of the Hon'ble Bombay High Court in the case of Commissioner of Service Tax, Mumbai-VI Vs DBOI Global Services Private Limited reported in 2019 (20) GSTL 351 (Bom.). He has submitted that in the said decision the Hon'ble Bombay High Court has observed as follows:-

> *"The only requirement under Cenvat Credit Rules, 2004 to satisfy the definition on input services is the use in providing of output services. Therefore, where the input services are used in providing output services and there is some nexus, then invoking the test of necessity could be adding words to the rule which is not permissible in a fiscal statute."*

He has further submitted that there is no dispute on the use of the said services in providing output service nor there is any dispute on the service tax paid on said input services and, therefore, as held by the Hon'ble Bombay High Court, all the three services are admissible as input service.

3. Learned Authorised Representative appearing for revenue has supported the impugned order.

4. After taking into consideration of submissions from both the sides and on perusal of records, we note that, as held by Hon'ble Bombay High Court in **M/s DBOI Global Services P. Ltd.,** the essential condition for admissibility of Cenvat credit on input service is whether the input service is used in providing output service.

5. In the present case, there is no dispute that the above stated three input services were used in providing output service. There is no dispute on the duty paid nature of the same. Further, the question as to whether an input service is required to be subjected to service tax or not, cannot be examined at the time of availment of the same as held by various judicial pronouncements.

6. We, therefore, hold that the above stated all the three services are eligible as input services and therefore, service tax paid on the same is available to the appellant as Cenvat credit.

7. The impugned order is, accordingly, set aside and appeal is allowed.

(Dictated and pronounced in open court)

Sd/-
(JUSTICE DILIP GUPTA)
PRESIDENT

Sd/-
(ANIL G. SHAKKARWAR)
MEMBER (TECHNICAL)

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