FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 22/08/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70788/2017-SM[BR] dated 04/08/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/453/2012	**Uflex Limited Noida** A-1, Sector 60, NOIDA UP
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

Copy To

3 Advocate(s) / Consultant(s):

Arvind Arora,Advocate
H.NO 432, SECTOR-16A,
FARIDABAD,
HARYANA

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise. I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I
APPEAL No. E/453/2012-EX[SM]

(Arising out of Order-in-Appeal No. 264/CE/APPL/NOIDA/2011 dated 31/10/2011 passed by Commissioner of Customs & Central Excise (Appeals), Noida)

M/s. UFLEX LIMITED NOIDA — **Appellant**

Vs.

Commissioner of Central Excise, NOIDA — **Respondent**

Appearance:

Shri Arvind Arora (Adv) — for Appellant
Shri Gyanendra Kumar Tripath (AC) AR — for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 04/08/2017
Date of Decision : 04/08/2017

FINAL ORDER NO:-70788/2017.........

Per: Anil G. Shakkarwar

The present appeal is directed against Order-in-appeal No. 264/CE/APPL/NOIDA/2011 dated 31/10/2011 passed by Commissioner of Customs & Central Excise (Appeals) Noida.

2. Brief facts of the case are that appellants were manufacturers of Polyester Film, BOPP articles of plastics. They were also falling facility of Cenvat credit. The appellants were issued with a show cause notice dated 07/06/2010 through which appellants were called upon to show cause as to why Cenvat credit of Rs. 34,56,515/- availed by the

appellant on service tax paid on following services for the period from April, 2007 to July, 2008 should not be recovered under Rule 14 of Cenvat credit Rules 2004. The input services were as follows.

SI. No.	Name of the Service	Service Tax (in Rs.)
1	Air craft and flight insurance	95432.00
2	Air craft and flight management	435092.00
3	Custody services	3942.00
4	Debenture trusteeship	118590.00
5	Employee insurance	79249.00
6	Expenses for raising FCCB	2024416.00
7	Fleet management	83351.00
8	Golf Course Membership	632.00
9	Hotel Membership	2472.00
10	Housekeeping and cleaning services	416823.00
11	Insurance of Company Cars	85595.00
12	Maintenance of Office Computers	11433.00
13	Maintenance of records of Shareholders	15161.00
14	Pandal & Shamiana services	33915.00
15	Pest control services	24720.00
16	Repair of Company Vehicles	7047.00
17	Tour & Travelling	1566.00
18	Travelling Expenses	1999.00
19	Valuation Services	15080.00
	Total	3456515.00

3. It was alleged in the said show cause notice that said services had no relation to the manufacture of final product. On contest show cause notice was adjudicated through Order-in-Original dated 09/06/2011 wherein the original authority allowed Cenvat credit of service tax paid on Housekeeping & cleaning, Maintenance of office computers and Pest control service. In respect of said services the original authority allowed Cenvat credit of Rs. 4,52,976/-. The original authority disallowed Cenvat credit of Rs. 30,03,539/- in respect of remaining services. Aggrieved by the said order the appellant preferred appeal before the Learned Commissioner (Appeals). The Learned Commissioner (Appeals) decided the said appeal through impugned Order-in-Appeal dated 31/10/2011. The Learned Commissioner (Appeals) allowed Cenvat credit of Rs. 3,09,584/- in respect of service tax paid on Custodial Service, Debenture Trusteeship Service, Group Personnel Accident Insurance Service, Vehicle Insurance Service, Servicing & Repair of Vehicle and Share Transfer Agents Service and upheld said Order-in-Original in respect of remaining "input services" and held that Cenvat credit of service tax paid on them to the tune of Rs. 26,93,955/- was not admissible to the appellant. Aggrieved by the said Order-in-Appeal appellant preferred appeal before this Tribunal.

4. Heard the Learned Counsel for appellant. The Learned Counsel for appellant has submitted that elaborately it was argued before the original authority and first appellate authority, the grounds of appeal that all the services in respect of which service tax paid was availed as Cenvat credit were used for the purpose of business and issue is squarely covered by the ruling of Hon'ble High Court of Bombay in the case of Commissioner of Central Excise Nagpur vs. Ultratech Cement Ltd. reported at 2010 (20) STR 577 (Bombay) and in view of the ruling in Para 35 of the said ruling that all the services used in relation to the business of manufacturing the final products are covered under the definition of input service. Therefore, said Cenvat credit was admissible to them.

5. Heard the Learned AR who has supported the impugned Order-in-Appeal.

6. Having considered the rival contention and on perusal of record I find that the dispute was whether various services stated above were eligible as input service for the purpose of availment of Cenvat credit. The contention of Revenue is that the appellants could not established that the said services were used in or in relation to the manufacture of final product and therefore, denied Cenvat credit of service tax paid on the said services. The Hon'ble High Court of Bombay in the above stated case of Commissioner of Central Excise Nagpur vs. Ultratech Cement Ltd. in Para 35 has held as follows:

"The argument of the Revenue, that the expression "such as" in the definition of input service is exhaustive and is restricted to the services named therein, is also devoid of any merit, because, the substantive part of the definition of 'input service' as well as the inclusive part of the definition of 'input service' purport to cover not only services used prior to the manufacture of final products, subsequent to the manufacture of final products but also services relating to the business such as accounting, auditing....etc. Thus the definition of input service seeks to cover every conceivable service used in the business of manufacturing the final products. Moreover, the categories of services enumerated after the expression 'such as' in the definition of 'input service' do not relate to any particular class or category of services, but refer to variety of services used in the business of manufacturing the final products. There is nothing in the definition of 'input service' to suggest that the Legislature intended to define that expression restrictively. Therefore, in the absence of any intention of the Legislature to restrict the definition of 'input service' to any particular class or category of services used in the business, it would be reasonable to construe that the expression 'such as' in the inclusive part of the definition of input service is only illustrative and not exhaustive. Accordingly, we hold that all services used in relations to the business of manufacturing the final products are covered under the definition of 'input services' and in the present case, the outdoor catering services being integrally connected with the business of the manufacture of cement, credit of service tax paid out on catering services has been rightly allowed by the Tribunal."

7. I find that Hon'ble High Court very clearly held that all services used in relation to the business of manufacturing of final products are covered under the definition of "input services". In view of the said ruling of Hon'ble High Court Bombay I hold that service tax paid on the services stated above in Para-2 were admissible for availment of Cenvat credit to the appellant. I therefore, allow the appeal and accordingly, modify the input Order-in-Appeal. The appeal is allow and appellant shall be entitled for consequential relief as per law.

(Dictated & Pronounced in Court)

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

Lks

प्रमाणित प्रति/Certified True Copy
25/08/17
सहायक पंजीकार/Assit. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण(C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001