

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Appeal(s) Involved:

**Customs Appeal No. 2580 of 2010 and
Customs Appeal No. 690 of 2011**

*(Both appeals arising out of Order-in-Appeal
No.151/2010 dated 28.8.2010 passed by the
Commissioner of Customs (Appeals), Bangalore.)*

**The Commissioner of
Customs**
C.R. Building,
Queen's Road,
Bangalore.

Appellant(s)

Versus

**M/s. Intergarden India Pvt.
Ltd.**
No.29/2A, Mallarabavadi,
Kunigal Main Road
Nelamangala,
Bangalore - 562 123.

Respondent(s)

Appearance:

Shri P. Saravana Perumal,
Additional Commissioner (AR)

For the Appellant

None

For the Respondent

CORAM:

**HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)**

Final Order No. 20718 - 20719 /2023

Date of Hearing: 20.06.2023

Date of Decision: 20.06.2023

Per : R. BHAGYA DEVI

M/s. Intergarden India Pvt Ltd, the respondent is 100% an Export Oriented Unit (EOU) engaged in the manufacture and export of gherkins. They filed refund claim seeking refund of

unutilised CENVAT credit of the service tax paid on various input services. Both the original authority and the Commissioner (Appeals) have allowed the refund claims. The Revenue is in appeal against the impugned order of the Commissioner (Appeals).

2. The Revenue has contended that as per Rule 2 of the CENVAT Credit Rules, 2004, 'input service' means any service, used by a provider of taxable service for providing an output service or used by the manufacturer directly or indirectly in or in relation to the manufacture of the final products. The Revenue states that the car rentals, certification and testing, courier and postage, import handling charges, manpower supply mobile bill pest control services are not used directly or indirectly in or in relation to the manufacture of the final products, therefore, these input services on which credit was availed, the respondents were not eligible for the refund.

3. None appeared for the respondents.

4. From the impugned order, we find that the Commissioner (Appeals) has affirmed the findings of the original authority wherein it was found that import handling charges was utilised for handling cargo, manpower supply relates to wages paid to the manpower engaged in the production of the final products. He also stated that pest control was used for controlling the pests in the fields where greens are grown, while certification and testing is used for analysis of the goods exported by the respondents. Thus, the Commissioner (Appeals) has given a

clear finding that the original authority on verification from the jurisdictional officers has held that the input services were used in the manufacture of the final products.

5. The Revenue on the other hand has not provided any evidence to prove that the above services were not used in the manufacture of the final products. Revenue in their grounds of appeal has only stated that the services are not used directly or indirectly, in or in relation to manufacture of final products. Another ground seen is that in an earlier order, the Commissioner (A) had rejected the CENVAT credit as well as their refund claims. The facts and circumstances of each appeal is entirely different and no cogent reasons are forthcoming from the records filed by the Revenue to deny the CENVAT credit and thereby reject the refund claims filed by the respondent.

6. In view of the above, the impugned order is upheld and the appeals filed by the Revenue are dismissed.

(Order dictated and pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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