CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 2

Service Tax Appeal No. 2646 of 2010

(Arising out of Order-in-Original No.11/2010 dated 28.07.2010 passed by the Commissioner of Central Excise and Service Tax, Mangalore.)

Canara Bank,
(Erstwhile known as Syndicate Bank),
Central Accounts Dept.
Tax Cell, Head Office,
Manipal Dakshina Kannada,
Karnataka - 576 104.

Appellant(s)

VERSUS

The Commissioner of Central Excise and Service Tax
7th Floor, Trade Centre,
Bunts Hostel Road,
Dakshina Kannada,
Karnataka - 575 003.

Respondent(s)

APPEARANCE:

Mr. S. Ananthan, Chartered Accountant for the Appellant

Mr. Rajesh Shastry, Superintendent (AR) for the Respondent

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20762 / 2025

DATE OF HEARING: 21.02.2025
DATE OF DECISION: 05.06.2025

PER : R. BHAGYA DEVI

This appeal is filed by the appellant Canara Bank against Order-in-Original No.11/2010 dated 28.07.2010 passed by the Commissioner of Central Excise and Service Tax, Mangalore.

2. Briefly the facts are the appellant M/s. Canara Bank (Erstwhile M/s. Syndicate Bank) provided Banking and Other Financial Services, Business Support Services, Commercial

Training or Coaching services etc. On verification of their ST-3 returns, it was found that they had utilised cenvat credit of Rs.3,78,00,541/- which was held to be irregular and hence, notice was issued. The original authority vide Order-in-Original No.04/2009 dated 04.03.2009 held that the appellant was ineligible for the CENVAT credit of Rs.2,92,47,275/-. The appellant filed an appeal against the above order and the Tribunal vide Final Order No.02/2010 dated 07.12.2009 allowed the appeal by way of remand. During the denovo proceedings, the Commissioner after examining various documents and based on various provisions of the Cenvat Credit Rules, 2004 disallowed credit of Rs.97,24,249/- and also imposed various penalties under Section 76 of the Finance Act, 1994. Aggrieved by this order, the appellant is in appeal before us.

3. The learned Chartered Accountant on behalf of the appellant submitted that the impugned order is beyond the scope of the show-cause notice since there was no allegation in the show-cause notice that they were ineligible input service and moreover, they are all eligible input services. It is further submitted that the Tribunal had specifically directed the Commissioner to verify the documents and the appellant had discharged this burden of proof by producing audited documents which were seen and accepted by the Commissioner. However, denied the benefit of the cenvat credit on the ground that they are not eligible input services which is beyond the scope of the order of the Tribunal as well as the show-cause notice, hence, the impugned order needs to be set aside.

4. The learned Authorized Representative on behalf of the Revenue submitted that the credit availed was irregular and hence, the appellant was liable to reverse the cenvat credit. It is further submitted that the Tribunal had remanded for fresh adjudication and hence, the impugned order which looked into the eligibility of the cenvat credit cannot be dislodged on the ground that it was beyond the scope of the order of the Tribunal.

5. Heard both sides. The only issue to be decided is whether the appellant is eligible for various input services as claimed by the appellant. The Tribunal vide Final Order No. 02/2010 dated 07.12.2009 in the first round of litigation observed as follows:

> "6. On a careful consideration of the submissions made by both sides and perused the records produced before us, we find that the entire demand of Rs.2,92,47,275/ has arisen only on the ground that the appellant was not able to give break up of the head "other charges". We find that the adjudicating authority has come to such a conclusion for denial of Cenvat credit on the ground that the appellant has not produced any breakup and detailed explanation. The adjudicating authority should have considered the issue after going through the evidence placed before him and the submissions made before him by the appellant which is marshalled before us now. In view of this, we set as de the impugned order to the extent it confirms the reversal of Cenvat credit of Rs. 2.92 crores and allow the appeal by way of remand to the adjudicating authority for a fresh decision after appreciating the evidence placed before him during the denovo proceedings. The appellant shall be given an opportunity of personal hearing. The stay application and the appeal are disposed of oy way or remand."

Hence, the impugned order following the directions of the Tribunal and after verification of eligibility and various documents disallowed cenvat credit to the extent of Rs.97,24,249/-.

6. We find that the Commissioner in the impugned order denied cenvat credit on the following input services as shown in the table below:

Sl. No.	**Expenditure Head**	**Amount (in rupees)**	**Reason**
1	AMC at Head office	94,504	Sample documents not provided
2	Security	42,99,995	Ineligible input
3	Audit fee/ Concurrent Audit Fees	10,76,275	Ineligible input
4	E-filing	833	Ineligible input
5	Rent	4,78,630	
6	Insurance	56,157	Ineligible input
7	Architect Fee/ Professional Fee	84,355	Ineligible input

Sl. No.	Expenditure Head	Amount (in rupees)	Reason
8	Car repair	1,522	Sample documents not provided
9	Other Charges at 5 ROs	1,43,190	Sample documents not provided
10	Others at 12 Ros for which break up not given	11,15,864	Sample documents not provided
11	Excess credit availed	9,83,864	Excess credit
12	Security charges	12,39,677	Ineligible input
13	Hire charges for vehicle/generator	379	Ineligible input
14	General Repairs	978	Ineligible input
15	Concurrent audit fee	86,999	Ineligible input
16	Professional charges	5,279	Ineligible input
17	Rent	55,748	Ineligible input
	Total	**97,24,249**	

6.1 We find that at paragraph 24 of the impugned order, the Commissioner observed as follows:

> "I find that they have furnished audited certificates of service tax paid statements from their Regional offices and other related offices such as……..The audited statements furnished by the service provider in respect of their Regional offices actually show the service tax paid for the input services for the period October 2006 to March 2007 in respect of Branches coming under their jurisdiction."

Appellant had also furnished copies of sample documents which contained the service tax component; however, denied the benefit of cenvat credit on AMC, Rent, Architect Fee, Professional Fees, Car Repairs on the ground that the service provider failed to furnish copies of sampled documents containing the service tax element. The cenvat credit on Security, Audit Fee, E-filing, Insurance has been denied on the ground that they are not eligible inputs.

7. We find that in appellant's own case, this Tribunal vide **Final Order No. 20268/2020 dated 18.2.2020 [2022 (58) GSTL 440 (Tri. Bang.)]** observed as follows:

"9. Heard both the sides and perused the records of the case. We find that as contented by the Learned Counsel, the impugned order travelled beyond the scope of show cause notice. Whereas the show cause notice is issued for disallowance of credit for contravening of the provisions of Rule 9 of Cenvat Credit Rules, 2004, the Learned Commissioner proceeds to deny the credit on co-relation between input service and output service. Therefore, the impugned order is not legally sustainable. Anyway, we find in view of the judgments in the cases of *Millipore India Pvt. Ltd.,* [2011] 16 taxmann.com 363 (Kar.) and *Toyota Kirloskar Motor Pvt. Ltd.,* 2011-TIOL-941-HC-KAR-ST, we find that the input services claimed by the appellants are admissible for credit for rendering output services, we find that Hon'ble High Court of Karnataka has observed that -

> "There cannot be any quarrel regarding the said proposition of law. As stated therein, the definition of input service is more exhaustive than input. Whether it is input or output service there should be nexus or integral connection with the manufacture of final products as well as the business activity. At the same time, because of the exhaustive definition of input service, the scope of nexus or integral connection is also explained and in fact is specifically provided. Therefore to find out whether there is a nexus or integral connection with the manufacturer of final products. We have to keep in mind the exhaustive definition contained in input service and then the word used therein, that is, the activities relating to business and then decide whether any particular service would constitute input service. The real test is, whether there is a nexus or integral connection with the manufacture of final products as well as the business of manufacture of final product. In the case of the other facilities to the workmen is treated as input service. The State function arranged once in a year, for the welfare of the employees of the industry and in order to protect and preserve the culture of the State the said function cannot be separated from the business of manufacture of final product. In order to run the industry without any problem from the insiders or from outsiders, incurring of such expenses has unfortunately become a part of running the establishment. If a Multi National Company celebrates the 1st November as a Karnataka Rajyostava Day and spends lavishly for their employees and also sought participation in the said function by the jurisdictional police and on that momentous occasion, the expenses incurred for taking photography or providing Shamiyana

service and inaugural of police station it cannot be said that such expenses have no nexus or integral connection with the manufacture of final product as well as business of manufacture of final products. Keeping in view the sentiments of the particular State the problems which are faced in all these establishment in a Linguistic State and as a reasonable employer if he wants to satisfy the aspirations of the people in a lawful manner, he cannot be found fault with."

10. In view of the above we have no hesitation in holding that the services which are utilized by the appellants have nexus with the output services provided by them. Therefore, credit is also admissible".

8. In view of the above, we do not find any reason to deny the benefit of cenvat credit on all the above input services, which are held to be ineligible input service on the ground that there is no nexus. Hence, cenvat credit stands allowed for all services except listed at Sl. Nos. 1,8,9 and 10 which are rejected on the ground that sample documents to evidence payment of service tax have not been provided. The cenvat credit at Sl. No. 1,8,9 and 10 stands disallowed since the documents for availing the credit has not been furnished. The excess credit of Rs.9,83,864/- availed by the appellant which has been admitted, paid and appropriated in the impugned order also stands disallowed.

The appeal is partially allowed.

(Order was pronounced in Open Court on 05.06.2025.)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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