CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 347 of 2011

(Arising out of Order-in-Original No16/2010 dated 29.10.2010 passed by the Commissioner of Central Excise, Bangalore-I)

M/s. MILLENNIA REALTORS PVT LTD **....Appellant**
THE MILLENIA TOWER, B LEVEL 2, 12-14, NO.1
& 2, MURPHY ROAD, ULSOOR, BANGALORE
560008

VERSUS

Commissioner of Central
Excise ,Customs and Service Tax
BANGALORE-I **....Respondent**
POST BOX NO 5400...CR BUILDINGS,
BANGALORE, - 560001
KARNATAKA

WITH

Service Tax Appeal No. 430 of 2011

(Arising out of Order-in-Original No.80/2010 dated 18.11.2010 passed by the Commissioner of Service Tax, Bangalore-I)

M/s. MILLENNIA REALTORS PVT LTD **....Appellant**
THE MILLENIA TOWER, B LEVEL 2, 12-14,
NO.1 & 2, MURPHY ROAD, ULSOOR,
BANGALORE 560008

VERSUS

Commissioner of Central
Excise ,Customs and Service Tax
BANGALORE-I **....Respondent**
POST BOX NO 5400...CR BUILDINGS,
BANGALORE, - 560001
KARNATAKA

APPEARANCE:

Mr. K.S. Ravi Shankar, Advocate
No. 152(18), Race Cource
Bangalore, - 560001
Karnataka
For the Appellant

Mr. S.Devarjan, Joint Commissioner (AR)
For the Respondent

CORAM: HON'BLE MR. ANIL CHOUDHARY , JUDICIAL MEMBER
HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Final Order No. 20191-20192 / 2020

DATE OF HEARING: 17.02.2020
DATE OF DECISION: 17.02.2020

PER: ANIL CHOUDHARY

Heard the parties.

2. The issue involved is whether the appellants are admittedly an output service provider under the Head 'renting of immovable properties', whether they are entitled to CENVAT credit on input and input services consumed or utilized in construction of the commercial complex.

3. Learned Counsel for the appellants have taken us through precedent order of this Tribunal by Co-ordinate Bench in the case of *Golflinks Software Park Pvt. Ltd. Vs CCE, 2018-TIOL-2877-CESTAT-BANG* wherein on a similar issue, this Tribunal held that the appellant is entitled to CENVAT credit for input services which are similar dispute in the present appeal and the period in dispute being prior to 1st April, 2011, before amendment in the definition of 'input' and 'input services', disallowing certain input services. Learned Counsel also points out that so far the inputs is concerned, the issue stands squarely settled in favour of the appellant/assessee by ruling of Hon'ble Andhra Pradesh High Court in the case of *CCE Vs Sai Sahmita Storages (P) Ltd, 2011 (23) STR 341*. Learned Counsel further submitted that Revenue preferred an appeal against the order of Hon'ble Andhra High Court before Hon'ble Supreme Court but the same was later on withdrawn by Revenue. The issue stands finally settled in favour of the appellant/assessee. Learned Counsel also relied upon the reliance of the following cases on similar issue:

- *Vodafone Mobile Services Ltd. Vs CST, 2019 (27) GSTL 481 (Del.)*

- *Mundra Ports & Special Economic Zone Ltd. Vs CCE, 2015 (39) STR 7226 (Guj.)*
- *CCE Vs Mankapur Chini Mills, 2019 (367) ELT 889 (All.)*
- *CCE Vs Dymos India Automotive Pvt. Ltd, 2019 (365) ELT 26 (Mad.)*

4. Learned Authorized Representative for the Revenue relied upon the impugned order.

5. Considering the rival submission and on perusal of the impugned order, we are satisfied that the period in dispute is prior to 1st April, 2011, and the appellant is entitled to CENVAT credit both on inputs and input services utilized for the construction of complex, utilized for output service being 'Renting of immovable property service'.

6. In view of the aforementioned rulings of Hon'ble High Courts, the appeals are allowed with consequential benefits, if any, and the impugned order against the appellant stands set aside.

(Dictated and pronounced in open court)

(ANIL CHOUDHARY)
JUDICIAL MEMBER

(P. ANJANI KUMAR)
TECHNICAL MEMBER

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