CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH – COURT NO. 1

Central Excise Appeal No. 1697 of 2012

(Arising out of Order-in-Original 03/2012dated 16.03.2012 passed by the Commissioner ofCentral Excise and Customs, Belgaum)

M/s. JSW STEEL LTD **....Appellant**
PO VIDYANAGAR, TORANGALLUR DIST,
BELLARY 583 275

VERSUS

Commissioner of Central Excise, **....Respondent**
Customs and Service Tax-BELGAUM
NO. 71...CLUB ROAD,
CENTRAL EXCISE BUILDING,
BELGAUM,
KARNATAKA
590001

WITH

Central Excise Appeal No. 21886 of 2015

[Arising out of Order-in-Original No.BEL-EXCUS-000-COM-BHR-01-15-16-CX dated 04/06/2015 passed by Commissioner of Central Excise, BELGAUM]

M/s. JSW STEEL LTD **....Appellant**
PO VIDYANAGAR, TORANGALLUR DIST,
BELLARY 583 275

VERSUS

Commissioner of Central Excise, **....Respondent**
Customs and Service Tax-
BELGAUM
NO. 71...CLUB ROAD,
CENTRAL EXCISE BUILDING,
BELGAUM,
KARNATAKA
590001

APPEARANCE:

Shri M.S. Nagaraja, Advocate for the Appellant
ShriP.Gopakumar, Authorized Representative for the Respondent

AND

Central Excise Appeal No. 21990 of 2015

[Arising out of Order-in-Original No.BGM-EXCUS-000-COM-BHR/001/15-16 dated 05/06/2015 passed by Commissioner of Central Excise, BELGAUM]

Commissioner of Central Excise, Customs and Service Tax-BELGAUM **....Appellant**
NO. 71...CLUB ROAD,
CENTRAL EXCISE BUILDING,
BELGAUM,
KARNATAKA
590001

VERSUS

M/s. JSW STEEL LTD **....Respondent**
PO VIDYANAGAR, TORANGALLUR DIST,
BELLARY 583 275

APPEARANCE:

Shri P.Gopakumar, Authorized Representative for the Appellant
Shri M.S. Nagaraja, Advocate for the Respondent

CORAM: HON'BLE SHRI. S. K. MOHANTY, JUDICIAL MEMBER
HON'BLE SHRI. P. ANJANI KUMAR, TECHNICAL MEMBER

FINAL ORDER NO. 20849-20851/2021

DATE OF HEARING: 10/11/2021
DATE OF DECISION: 01/12/2021

PER: P.ANJANI KUMAR

M/s Jindal Steel Works Ltd are the manufacturers of iron and steel products falling under Chapter 72 of CETA, 1985. They are availing credit of duty or tax paid on inputs, capital goods and input services. On the basis of an audit conducted on the accounts of JSW, Revenue contended that the appellants have wrongly availed CENVAT credit of duty paid on various inputs and services. Three SCNs, dated 06.12.2010, 02.05.2011 and 10.02.2012, have been issued, covering the period November 2005 to October 2011; the proceedings culminated in the issuance of passing of the impugned order No.03/12 dated 16.03.2012. Learned Commissioner has dropped the proceedings initiated vide SCN dated 06.10.2012 and confirmed the demands raised vide SCN dated 02.05.2011 and 10.02.2012. M/s JSW are in appeal against this order vide Appeal No. E/1697/2012. Department further issued the following SCNs dated 05.12.2012, 29.05.2013, 05.12.2013 & 27.01.2014, covering the period November 2011 to March 2013. These proceedings culminated in the passing of the Order-in-Original No. 01/15-16-CX dated 04.06.2015 vide which the learned Adjudicating Authority has confirmed the demands to the tune of Rs.11,57,63,597/- raised therein and allowed credit of certain services utilized. M/s JSW are in appeal against this order vide Appeal No. E/21886/2015. Department is also in appeal against this order against allowance of the credit to the tune of Rs.53,59,32,598/- and against non-quoting of provisions of Rule 15(1) of the CCR read with provisions of Section 11AC of Central Excise Act or Section 76 of Finance Act, 1994.

2. M.S. Nagaraja, Learned Counsel, appearing for the Appellants submits both the impugned orders No.03/12 dated 16.03.2012 (Appeal No. E/1697/2012) and No. 01/15-16-CX dated 04.06.2015 (Appeal No E/21886/2015) have proceeded on the grounds that the CENVAT Credit is not admissible on Input Services since the same were not received and utilized by the manufacturer at the place of manufacture; services were received at a place away from the factory; services were not related to manufacture of final product; services were consumed by individuals having no connection with the process of manufacture; payments for certain services are made with no proper description of the input services; essentiality of services in the manufacture of final products is not established; services related to vehicles, aircraft and rails which are not Capital Goods/Inputs etc. He submits that the basis for disallowance of the Credit as alleged in the SCNs and confirmed in the impugned orders is contrary to the definition of "input service" in Rule 2 (l) and eligibility condition in Rule 3 (1) of the CENVAT Credit Rules, 2004. The Appellants rely on the following judgments/circulars which lay down the general principles:

(i). in the cases of CIT Vs Tajmahal Hotel 1971 (3) SCC 550 and CCE Vs Dynamic Industries Ltd 2014 (307) ELT 15 (Guj) it was held that the Phrase "includes" in Rule 2 (l) is used to enlarge the meaning and scope of services eligible for credit.

(ii). in the cases of Coca Cola India Ltd Vs CCE, Pune – 2009 (15) STR 657 (Bom); CCE, Nagpur Vs Ultra tech Cement Ltd 2010 (20) STR 577 (Bom) and BASF India Ltd Vs CCE Mangalore 2021 (49) GSTL 8 (Tri - Bang) it was held that activities relating to business are eligible for credit and that there were no exclusions.

(iii). Vide CBEC Circulars, No. 1065/4/2018-CX., dated 8-6-2018 and No. 999/6/2015-CX, dated 28-2-2015, it was stated that Services received up to the "place of removal" eligible for credit,

(iv). in the cases of Deepak Fertilizers and Petrochemicals Corporation Ltd Vs CCE, Belapur – 2013 (32) STR 532 (Bom); CCE & C, Aurangabad Vs Endurance Technology Pvt Ltd –2017 (52) STR 361 (Bom) and CCE Chennai Vs Ashok Leyland Ltd 2019 (369) ELT 162 (Mad.), it was held that, in terms of Rule 3 (1) (ii) of the CENVAT Credit Rules, 2004,

Services to be received by manufacturer and not necessarily within the factory unlike in the case of Inputs and Capital Goods

(v). in cases of Coca Cola India Ltd Vs CCE, Pune – 2009 (15) STR 657 (Bom); CCE Vs Tata Consultancy Services Ltd 2018 (362) ELT 777 (Bom) and CCE Mumbai II Vs Willis Processing Services (India) Pvt Ltd 2017 (7) GSTL 12 (Bom), it was held that Cost of input services included in the Cost of production/Price of goods is recognition of use of service in or in relation to manufacture

3. Learned Counsel submits that the impugned orders denied credit on various services on the grounds cited above. He submits that various services which were disallowed by the impugned orders have been held to be admissible for credit as per the judgments of various Courts and Tribunal and the issue is no longer *Res Judicata.* He relies on following cases for various services as mentioned in the table therein.

<table>
<tr><th>Sl.No</th><th>Alleged services</th><th>Eligibility of cenvat credit decided vide</th></tr>
<tr><td>1.</td><td>Hospitality services such as house-keeping, catering, laundry service for Hampi Guest House, Airport and Bachelor's Hostel etc.
(Cleaning Service)</td><td rowspan="2">(i) CCE, Hyderabad Vs ITC Ltd 2013 (32) STR 288 (AP)
[ITC Ltd Vs CCE, Hyderabad - 2010 (17) STR 146 (Tri Bang)]
(ii) CCE & ST, Visakhapatnam Vs Facor Alloys Ltd – 2017 (48) STR 491 (Tri-Hyd)
(iii) CCE, Nagpur Vs International Combustion (I) Ltd
2016 (44) STR 110 (Tri – Mum)
(iv) JSW Steel (Salav) Ltd Vs CCE, Raigad 2016 (46) STR 863 (Tri – Mum)
(v) Mukand Ltd Vs CCE, Belapur – 2016 (42) STR 88 (Tri – Mum)</td></tr>
<tr><td>2.</td><td>Pest control services such as removal of beehives, dog control measures, spray in canteen, mosquito and pest control at township, monkey catching, etc.
(Cleaning Services)</td></tr>
<tr><td>3.</td><td>Construction work undertaken at raw pond plants and rain water harvest pond of M/s JSW Energy Limited, cranes hiring charges, installation of aluminium door and civil work at Mumbai, Hubli and Toranagallu for utility.
(Commercial or industrial construction or repair)
Commercial or Industrial construction service eligible for credit as part of modernisation, renovation or repair of factory or office relating to factory:</td><td>Not related to construction of buildings eligible for credit.
(i) AquatehSteelcon Pvt. Ltd Vs CCE Jaipur - 2017 (3) G.S.T.L. 222 (Tri. - Del.)
(ii) Honda Motorcycle & Scooter (i) Pvt. Ltd Vs CCE Delhi –
2016 (45) STR 397 (Tri. - Chan.)
(iii) Sundaram Clayton Ltd Vs CCE Chennai II - 2016 (42) STR 741 (Tri. - Chennai)
(iv) CCE & ST, LTU VsLupin Ltd 2012 (285) ELT 221 (T – Mum)</td></tr>
<tr><td>4.</td><td>Repair/servicing of motor vehicles, etc.
(Authorised Service Station)</td><td>(i) CCE, Jaipur Vs J K Cement Works - 2009 (14) STR 538 (Tri – Del)
(ii) Bharat Fritz Werner Ltd Vs CCE, Bangalore - 2011 (22) STR 429)Tri – Bang)
(iii) CCE, Mysore VsChamundi Textiles (Silk Mills) Ltd - 2010 (258) ELT 141 (Tri – Bang)</td></tr>
</table>

		(iv) Birla Corporation Ltd Vs CCE, Bhopal - 2016(46) STR 430 (Tri- Del)
5.	AMC service of refrigerators, air-conditioners and like equipments installed in places other than place of manufacture (Maintenance and repair service at depots and branch offices)	(i) Sarita Handa Exports (P) Ltd Vs CCE Gurgaon –) STR 654 (Tri. - Chan.)
6.	Services in respect of printing and issue of “Meal vouchers” to the employees at various places like Toranagallu, Hyderabad, Mumbai, Secunderabad (Depots/Branch offices)	(i) CCE, Bangalore III VsStanzenToyotetsu India (P) Ltd 2011 (23) STR 444 (Kar) (ii) CCE, Bangalore Vs Bell Ceramics Ltd - 2012 (25) STR 428 (Kar) (iii) CCE, Udaipur Vs Mangalam Cement Ltd - 2018 (9) GSTL 17 (Raj) [Approved by Hon Supreme Court - 2018 (16) G.S.T.L. J168 (S.C.)]
7.	Hiring of minibus, tractor trailer, jumper car, hydra excavators, rigger, tipper, poclain etc., and deployment of house-keeping labour AMC of passenger elevators. (Supply of Tangible Goods)	(i) Larsen & Toubro Ltd Vs CCE, Mumbai II - 2018 (15) GSTL 66 (Tri – Mum) (ii) Larsen & Toubro Ltd Vs CCE, Mumbai II - 2018 (363) ELT 1103 (Tri – Mum) (iii) CCE, Hyderabad Vs Deloitte Tax Services India Pvt Ltd - 2008 (11) STR 266 (Tri – Bang)
8.	AMC of passenger elevators	(i) SaritaHanda Exports (P) Ltd Vs CCE Gurgaon 2016 (44) STR 654 (Tri. - Chan.)
9.	Horticultural consultancy at various places	(i) CCE, Bangalore II Vs Millipore India Pvt Ltd 2012 (26) STR 514 (Kar) (ii) CCE & ST, LTU, Chennai VsRane TRW Steering Systems Ltd 2015 (39) STR 13 (Mad) (iii) CCE & ST, Chennai Vs Brakes India Ltd - 2019 (369) ELT 577 (Mad)
10.	Maintenance of garden and fixing of agriculture artificial grass	
11.	Laying and maintenance of milestones	Installation of Road furniture/sign boards in the factory not excluded (activities relating to business)
12.	Installation, commissioning and maintenance of Public Address System in the factory (for addressing workers in case of emergencies, accidents, etc)	(i) MRPL Vs CCE, Mangalore – 2007 (216) ELT 43 (Tri- Bang)
13.	Handling, shearing, de-coiling, levelling, slitting of HR/CR coils undertaken at Bangalore, Hyderabad and Chennai after clearance of the same from the factory (Goods sent for job work)	(i) CBEC Circular No. 1065/4/2018-CX., dated 8-6-2018
14.	Maintenance of mason’s shed	Maintenance or Repair of buildings not excluded up to 1.4.2011.

15.	Apply of sky/street lights and fixing of roof sheeting, etc.	(i) Robert Bosch Engg& Business Solutions Pvt Ltd Vs CCE & ST, LTU, Bangalore - 2017 (51) STR 329 (T-Bang) (ii) CCE Vadodara II Vs. Siemens Healthcare Diagnostics Ltd 2014 (36) STR 192 (Tri - Ahmd) (iii) Cadmach Machinery Co. (P) Ltd Vs CCE Ahmedabad - 2013 (31) STR 33 (Tri - Ahmd) (iv) Semco Electric Pvt Ltd VsCCE, Pune-I - 2013 (30) STR 572 (Tri. - Mumbai)
16.	Operation, maintenance, hiring of paver machine and crushing of dolomite stones for road and related works in the factory (Supply of Tangible Goods and processing of goods)	(i) Larsen & Toubro Ltd Vs CCE, Mumbai II - 2018 (15) GSTL 66 (Tri – Mum) (ii) Larsen & Toubro Ltd Vs CCE, Mumbai II - 2018 (363) ELT 1103 (Tri – Mum) (iii) CCE, Hyderabad Vs Deloitte Tax Services India Pvt Ltd - 2008 (11) STR 266 (Tri – Bang)
17.	Aviation/Airport services such as flight operation, pilot service, flight handling, etc. (Services received for own aircraft)	(i) Reliance Industries Ltd Vs CCE & ST, LTU, Mumbai - 2016 (45) STR 383 (Tri-Mum) (ii) Force Motors Ltd Vs CCE, Pune-I 2009 (16) STR 591 (Tri – Mum).
18.	Repair and maintenance of non-factory building, electrical installation and installation of rapid doors,	(v) Robert Bosch Engg& Business Solutions Pvt Ltd Vs CCE & ST, LTU, Bangalore - 2017 (51) STR 329 (T-Bang) (vi) CCE Vadodara II Vs. Siemens Healthcare Diagnostics Ltd 2014 (36) STR 192 (Tri - Ahmd) (vii) Cadmach Machinery Co. (P) Ltd Vs CCE Ahmedabad - 2013 (31) STR 33 (Tri - Ahmd) (viii) Semco Electric Pvt Ltd Vs CCE, Pune-I - 2013 (30) STR 572 (Tri. - Mumbai)
19.	Architect's works in respect of various buildings in the factory (Architect service)	(i) Fidelity Business Services India Pvt. Ltd Vs CCE Bangalore 2021 (50) G.S.T.L. 315 (Tri. - Bang.) (ii) CCE & ST, LTU Vs Lupin Ltd - 2012 (285) ELT 221 (T – Mum)
20.	Repair and maintenance of railway lines, fabrication of rails and loco shed, straightening of rails, etc. (Laying, maintenance and repair of railway)	(i) Jayaswal Neco Ltd Vs CCE, Raipur – 2015 (319) ELT 247 (SC)
21.	Maintenance of airport, fixing of windows (Maintenance of Airport within factory for own aircraft)	(i) Reliance Industries Ltd Vs CCE & ST, LTU, Mumbai - 2016 (45) STR 383 (Tri-Mum) (ii) Force Motors Ltd Vs CCE, Pune 1 - 2009 (16) STR 591 (Tri – Mum).
22.	Incentive/bonus/reward amount paid to the service providers (Manpower Supply)	(i) CC & CE, Hyderabad III Vs ITC Ltd - 2013 (32) STR 288 (AP) (ii) Arm Embedded Technologies Pvt Ltd Vs CCE & ST, Bangalore - 2016 (45) STR 133 (Tri-Bang)

23.	Excavation, digging, roof sheeting, hiring Tippers, Pay loaders, etc. (Supply of Tangible Goods)	(i) Larsen & Toubro Ltd Vs CCE, Mumbai II - 2018 (15) GSTL 66 (Tri – Mum) (ii) Larsen & Toubro Ltd Vs CCE, Mumbai II - 2018 (363) ELT 1103 (Tri – Mum) (iii) CCE, Hyderabad Vs Deloitte Tax Services India Pvt Ltd - 2008 (11) STR 266 (Tri – Bang)
24.	Opening and closing of manholes, reward for making up, maintenance of Parts at Bellary, work related to school etc. (Cleaning Services)	(i) CCE, Hyderabad Vs ITC Ltd 2013 (32) STR 288 (AP) [ITC Ltd Vs CCE, Hyderabad - 2010 (17) STR 146 (Tri Bang)] (ii) CCE & ST, Visakhapatnam VsFacor Alloys Ltd 2017 (48) STR 491 (Tri- Hyd) (iii) CCE, Nagpur Vs International Combustion (I) Ltd 2016 (44) STR 110 (Tri – Mum) (iv) JSW Steel (Salav) Ltd Vs CCE, Raigad 2016 (46) STR 863 (Tri – Mum) (v) Mukand Ltd Vs CCE, Belapur – 2016 (42) STR 88 (Tri – Mum)
25.	Excavation of earth, roof work, sheeting work, PCC and RCC work of the buildings within the factory	Construction service eligible for credit up to 1.4.2011
26.	Advertising Services	(i) Coca Cola India Ltd Vs CCE, Pune – 2009 (15) STR 657 (Bom) (ii) CCE & ST, LTU VsLupin Ltd 2012 (285) ELT 221 (T – Mum)
27.	Air Travel Agent services	(i) Mangalore Refinery And Petrochemicals Ltd Vs CCE Mangalore 2021 (52) GSTL 606 (Tri - Bang) (ii) Ramco Cements Ltd Vs CCE Puducherry 2017 (5) GSTL 105 (Tri - Chennai) (iii) CCE Delhi III Vs Mindarika Pvt. Ltd 2015 (39) STR 309 (Tri. - Del.) (iv) Cadmach Machinery Co. (P) Ltd Vs CCE Ahmedabad 2013 (31) STR 33 (Tri - Ahmd) (v) Good Luck Steel Tubes Vs CCE – 2013 (32) STR 123 (T)
28.	Airport services	(i) Hindustan Petroleum Corpn. Ltd Vs CCE Vizag- 2017 (47) STR 136 (Tri. - Hyd.) (ii) Force Motors Ltd Vs CCE, Pune 2009(16) STR 591 (Tri – Mum) (iii) Reliance Industries Ltd Vs CCE & ST, LTU, Mumbai - 2016 (45) STR 383 (Tri- Mum)
29.	Architect's Services	(i) Fidelity Business Services India Pvt. Ltd Vs CCE Bangalore 2021 (50)

		GSTL 315 (Tri - Bang) (ii) CCE & ST, LTU Vs Lupin Ltd - 2012 (285) ELT 221 (T – Mum)
30.	Authorized Service Station services (availed only up to 31.03.2011)	(i) Birla Corporation Limited Vs CCE Bhopal - 2016 (46) STR 430 (Tri. - Del.) (ii) Cadmach Machinery Co. (P) Ltd Vs CCE Ahmedabad 2013 (31) STR 33 (Tri - Ahmd) (iii) Bharat Fritz Werner Ltd Vs CCE, Bangalore 2011 (22) STR 429)Tri – Bang)
31.	Banking and Financial services	(i) Ahmednagar Forgings Ltd Vs CCE Pune III - 2017 (6) GSTL 54 (Tri. - Mumbai) (ii) BS & B Safety Systems India Ltd Vs CCE Chennai - 2017 (52) STR 174 (Tri. - Chennai)
32.	Business Auxiliary Services (Commission Agent service, Job Work services, etc)	(i) CBIC Circular No. 943/4/2011-CX dated 29.04.2011 (ii) Arm Embedded Technologies Pvt Ltd Vs CCE & ST, Bangalore - 2016 (45) STR 133 (Tri-Bang) (iii) Mangalam Cement Ltd Vs CCE, Jaipur 2017 (49) STR 308 (T) (Affirmed by Hon High Court of Rajasthan - 2018 (9) G.S.T.L. 17 (Raj.)) (iv) Birla Corporation Ltd Vs CCE Lucknow 2014 (35) STR 977 (Tri - Del)
33.	Business Support Services	(i) Robert Bosch Engg & Business Solutions Pvt Ltd Vs CCE & ST, LTU, Bangalore - 2017 (51) STR 329 (T-Bang) (ii) Mukand Ltd Vs CCE, Belapur – 2016 (42) STR 88 (T – Mum) (iii) Brakes India Ltd. Vs CCE, Mysore 2010 (19) STR 524 (Tri - Bang.) (iv) JBM Auto System Pvt. Ltd Vs CCE, Chennai 2012 (27) STR 170 (Tri. - Chennai) (v) Castrol India Limited Vs CCE Vapi 2013 (291) E.L.T. 469 (Tri. - Ahmd.)
34.	Cargo Handling Services (Handling and Transportation of Ore from mines to the factory for procurement of inputs, handling at ports for	Services received up to the Place of removal eligible. (i) CCE, Udaipur VsMangalam Cement Ltd - 2018 (9) GSTL 17 (Raj) [upheld by Hon Supreme Court in

	exports, handling of goods at factory/depots, Handling of structural's, Loading and transportation of soil for filling, transportation of slime, etc)	Commissioner Vs Manglam Cement Ltd - 2018 (16) GSTL J168 (SC)] (ii) CCE Vs Inductotherm India Pvt Ltd 2014 (36) STR 994 (Guj)
35.	Cleaning Services	(i) CCE, Hyderabad Vs ITC Ltd 2013 (32) STR 288 (AP) (ii) Delphi Automotive Service Pvt Ltd Vs CCE & ST, Noida 2014 (36) STR 1089 (T-Del) (iii) CCE & ST, LTU VsLupin Ltd 2012 (285) ELT 221 (T – Mum) (iv) Balkrishna Industries Ltd VsCCE Aurangabad 2010 (18) STR 600 (Tri. - Mumbai)
36.	Chartered Accountant Service	(i) Arm Embedded Technologies Pvt Ltd Vs CCE & ST, Bangalore - 2016 (45) STR 133 (Tri-Bang) (ii) Ingersoll-Rand International (India) Ltd Vs CST Bangalore- 2015 (38) STR 646 (Tri. - Bang.) (iii) Utopia India Pvt. Ltd Vs CST Bangalore - 2011 (23) STR 25 (Tri. - Bang)
37.	Clearing & Forwarding Agent Services	(i) CCE, Udaipur Vs Mangalam Cement Ltd 2018 (9) GSTL 17 (Raj) [upheld by Hon Supreme Court in Commissioner Vs Manglam Cement Ltd - 2018 (16) G.S.T.L. J168 (S.C.)] (ii) Robert Bosch Engg& Business Solutions Pvt Ltd Vs CCE & ST, LTU, Bangalore 2017 (51) STR 329 (T-Bang)
38.	Commercial or Industrial Construction services	(v) Aquateh Steelcon Pvt. Ltd Vs CCE Jaipur - 2017 (3) GSTL 222 (Tri - Del) (vi) Honda Motorcycle & Scooter (i) Pvt. Ltd Vs CCE Delhi – 2016 (45) STR 397 (Tri. - Chan.) (vii) Sundaram Clayton Ltd Vs CCE Chennai II - 2016 (42) STR 741 (Tri - Chennai) (viii) CCE & ST, LTU Vs Lupin Ltd 2012 (285) ELT 221 (T – Mum)
39.	Commercial Training and Coaching services	(i) Integra Software Services Pvt. Ltd Vs CCE Puducherry 2017 (48) STR 137 (Tri. - Chennai) (ii) Xilinx India Tech. Services Pvt. Ltd Vs CCE Hyderabad 2016 (44) STR

		635 (Tri. - Hyd.) (iii) CCE Delhi III VsMindarikaPvt. Ltd 2015 (39) STR 309 (Tri. - Del.)
40.	Consulting Engineer services	(i) Castrol India Limited Vs CCE Vapi 2013 (291) STR 469 (Tri. - Ahmd.) (ii) Cadmach Machinery Co. (P) Ltd Vs CCE Ahmedabad - 2013 (31) STR 33 (Tri - Ahmd) (iii) Ramco Cements Ltd Vs CCE Puducherry - 2017 (5) G.S.T.L. 105 (Tri. - Chennai)
41.	Convention Hall (Renting) services	(i) Virchow Laboratories Ltd Vs CCE Hyderabad 2017 (51) STR 443 (Tri. - Hyd.) (ii) Hindustan Petroleum Corpn. Ltd Vs CCE Vishakhapatnam 2017 (47) STR 136 (Tri. - Hyd.) (iii) Reliance Industries Ltd Vs CCE & ST, LTU, Mumbai 2016 (45) STR 383 (Tri- Mum)
42.	Courier services	(i) Hawkins Cookers Ltd Vs CCE Thane 2021 (52) G.S.T.L. 137 (Tri. - Mumbai) (ii) CCE & ST, LTU VsLupin Ltd 2012 (285) ELT 221 (T – Mum) (iii) Metro Shoes Pvt Ltd, Vs CCE, Mumbai – I 2008(10) STR 382 (T-Mum)
43.	Custom House Agent services	(i) Ingersoll-Rand International (India) Ltd Vs CST Bangalore 2015 (38) STR 646 (Tri- Bang) (ii) Stovec Industries Ltd Vs CCE Ahmadabad 2014 (33) STR 155 (Tri. - Ahmd.) (Maintained by Hon. High Court of Rajastahn in Commissioner of C. Ex. & Customs VsStovec Industries Ltd - 2014 (33) STR 124 (Guj.) (iii) CCE Vs Dynamic Industries Ltd – 2014 (307) ELT 15 (Guj)
44.	Erection, commissioning and installation services	(i) Thermax Ltd Vs CCE Vadodara 2020 (35) GSTL 118 (Tri - Ahmd) (ii) Hindustan Coca Cola Beverages Pvt. Ltd Vs CCE Chennai 2017 (49) STR 419 (Tri- Chennai) (iii) Bostik India Pvt. Ltd Vs CCE Bangalore I 2017 (49) STR 240 (Tri. - Bang.) (iv) Orient Paper Mills Vs CCE Raipur 2016 (45) STR 178 (Tri. - Del.)

45.	Goods Transport by Road	CBIC Circular No. 1065/4/2018-CX., dated 8-6-2018 – Credit eligible on GTA service up to the "Place of removal".
46.	Health Care Services (Availed only up to 31.03.2011)	Service charges paid for hospitalisation of employees in the course of working in factory - covered under the term activities relating to business and eligible for credit
47.	Information Technology and Software services	(i) CCE Delhi Vs Hollister Medical India Pvt. Ltd 2017 (49) STR 426 (Tri. - Del.) (ii) Xilinx India Tech. Services Pvt. Ltd Vs CCE Hyderabad 2016 (44) STR 635 (Tri. - Hyd.) (iii) Arm Embedded Technologies Pvt Ltd Vs CCE & ST, Bangalore - 2016 (45) STR 133 (Tri-Bang) (iv) Sundaram Clayton Ltd Vs CCE Chennai II 2016 (42) STR 741 (Tri. - Chennai)
48.	Intellectual Property services (Service Tax paid on Royalty for mining of Lime Stone used in the factory)	The service is used for procurement of Lime stone as inputs and used in or in relation to manufacture of final products.
49.	Interior Decorator services	(i) Reliance Industries Ltd Vs CCE & ST, LTU, Mumbai 2016 (45) STR 383 (Tri- Mum) (ii) Carrier Air-conditioning & Refrigeration Ltd Vs CCE Delhi 2016 (41) STR 824 (Tri. - Chan.) (iii) Bharat Fritz Werner Ltd Vs CCE, Bangalore 2011 (22) STR 429)Tri – Bang)
50.	Management and Business Consultants services	(i) Ramco Cements Ltd Vs CCE Puducherry 2017 (5) G.S.T.L. 105 (Tri. - Chennai) (ii) Xilinx India Tech. Services Pvt. Ltd Vs CCE Hyderabad 2016 (44) STR 129 (Tri. - Hyd.) (iii) Semco Electric Pvt Ltd Vs CCE, Pune I - 2013 (30) STR 572 (Tri. - Mumbai) (iv) Castrol India Limited Vs CCE Vapi 2013 (291) ELT 469 (Tri. - Ahmd.)
51.	Management, Maintenance and Repair services	(ix) Robert Bosch Engg& Business Solutions Pvt Ltd Vs CCE & ST, LTU, Bangalore - 2017 (51) STR 329 (T-Bang)

		(x) CCE Vadodara II Vs. Siemens Healthcare Diagnostics Ltd 2014 (36) STR 192 (Tri - Ahmd) (xi) Cadmach Machinery Co. (P) Ltd Vs CCE Ahmedabad - 2013 (31) STR 33 (Tri - Ahmd) (xii) Semco Electric Pvt Ltd Vs CCE, Pune-I - 2013 (30) STR 572 (Tri. - Mumbai)
52.	Manpower Recruitment or Supply Agency Service	(i) CCE Hyderabad Vs ITC Ltd 2013 (32) STR 288 (AP) (ii) Robert Bosch Engg& Business Solutions Pvt Ltd Vs CCE & ST, LTU, Bangalore - 2017 (51) STR 329 (T-Bang) (iii) Arm Embedded Technologies Pvt Ltd Vs CCE & ST, Bangalore - 2016 (45) STR 133 (Tri-Bang) (iv) Utopia India Pvt. Ltd Vs CST Bangalore - 2011 (23) STR 25 (Tri. - Bang)
53.	Membership of Club or Association services	(i) Goldman Sachs Services Pvt. Ltd Vs CCE Bangalore - 2021 (52) G.S.T.L. 425 (Tri. - Bang.) (ii) Fidelity Business Services India Pvt. Ltd Vs CCE Bangalore - 2021 (50) G.S.T.L. 315 (Tri. - Bang.) (iii) Robert Bosch Engg& Business Solutions Pvt Ltd Vs CCE & ST, LTU, Bangalore 2017 (51) STR 329 (T-Bang) (iv) Arm Embedded Technologies Pvt Ltd Vs CCE & ST, Bangalore - 2016 (45) STR 133 (Tri-Bang)
54.	Outdoor Catering services (Availed only up to 31.03.2011)	CCE, Udaipur VsMangalam Cement Ltd 2018 (9) GSTL 17 (Raj) Upheld 2018 (16) GSTL168 (SC)]
55.	Port services (In relation to import of inputs/capital goods and export of final products)	(i) Castrol India Limited Vs CCE Vapi 2013 (291) ELT 469 (Tri. - Ahmd) (ii) Merino Industries Ltd Vs CCE Meerut 2017 (4) G.S.T.L. 395 (Tri. - All.) (iii) Ballarpur Industries Ltd Vs CCE Pune 2014 (36) STR 1122 (Tri. - Mumbai)
56.	Renting of Motor Vehicles (Credit availed up to 31.3.2011)	(i) Integra Software Services Pvt. Ltd Vs CCE Puducherry 2017 (48) STR 137 (Tri. - Chennai) (ii) MarvelVinyls Ltd Vs CCE Indore 2017 (49) STR 424 (Tri - Del.)

		(iii) Aban Offshore Limited Vs CCE Mumbai 2020 (43) GSTL 213 (Tri. - Mumbai)
57.	Renting of Immovable Property services	(i) Integra Software Services Pvt. Ltd Vs CCE Puducherry 2017 (50) STR 145 (Tri. - Chennai) (ii) Xilinx India Tech. Services Pvt. Ltd Vs CCE Hyderabad 2016 (44) STR 635 (Tri. - Hyd.) (iii) Integra Software Services Pvt. Ltd Vs CCE Puducherry - 2017 (48) STR 137 (Tri. - Chennai) (iv) John Dere India Pvt Ltd Vs CCE, Pune III – 2016 (41) STR 990 (T)
58.	Security Agency Service	(i) CCE Vadodara II Vs Siemens Healthcare Diagnostics Ltd 2014 (36) STR 192 (Tri - Ahmd.) (ii) Ballarpur Industries Ltd Vs CCE Pune 2014 (36) STR 1122 (Tri. - Mumbai) (iii) Castrol India Limited Vs CCE Vapi 2013 (291) ELT 469 (Tri. - Ahmd.) (iv) Metro Shoes Pvt Ltd., VsCCE, Mumbai – I 2008(10) STR 382 (T-Mum) (v) Utopia India Pvt. Ltd Vs CST Bangalore 2011 (23) STR 25 (Tri. - Bang)
59.	Site Formation, Clearance and Excavation services	(i) Adani Port & Special Economic Zone Ltd Vs CST Ahmadabad - 2016 (42) STR 1010 (Tri. - Ahmd.)
60.	Sponsorship services	(i) Hindustan Coca-Cola Beverages Pvt. Ltd Vs CCE BBSR I 2018 (363) E.L.T. 1087 (Tri. - Kolkata) (ii) Arm Embedded Technologies Pvt Ltd Vs CCE & ST, Bangalore - 2016 (45) STR 133 (Tri-Bang)
61.	Storage & warehousing services	(i) Sundaram Clayton Ltd Vs CCE Chennai II 2016 (42) STR 741 (Tri. - Chennai) (ii) Ballarpur Industries Ltd Vs CCE Pune 2014 (36) STR 1122 (Tri. - Mumbai) (iii) Castrol India Limited Vs CCE Vapi 2013 (291) E.L.T. 469 (Tri. - Ahmd.) (iv) Metro Shoes Pvt Ltd, Vs CCE, Mumbai – I 2008(10) STR 382 (T-Mum)
62.	Supply of Tangible Goods	(i) Fidelity Business Services India Pvt.

	services (Hiring of Machineries/ Equipment)	Ltd Vs CCE Bangalore 2021 (50) G.S.T.L. 315 (Tri. - Bang.) (ii) John Dere India Pvt Ltd Vs CCE, Pune III – 2016 (41) STR 990 (T) (iii) CCE Hyderabad-IV Vs Deloitte Tax Services India Pvt. Ltd 2008 (11) STR 266 (Tri. - Bang.)
63.	Survey and Map Making services	(i) Ramco Cements Ltd Vs CCE Puducherry 2017 (5) G.S.T.L. 105 (Tri. - Chennai)
64.	Technical Testing and Analysis services	(i) BS & B Safety Systems India Ltd Vs CCE Chennai 2017 (52) STR 174 (Tri. - Chennai) (ii) CCE Ahmadabad Vs Cadila Health care Ltd - 2013 (30) STR 3 (Guj.) (iii) Ingersoll-Rand International (India) Ltd Vs CST Bangalore 2015 (38) STR 646 (Tri. - Bang.) (iv) Idea Cellular Ltd Vs CCE, Mumbai-II 2016-TIOL-1198-CESTAT-MUM
65.	Technical Inspection and Certification Service	(i) Integra Software Services Pvt. Ltd Vs CCE Puducherry 2017 (48) STR 137 (Tri. - Chennai) (ii) CST VsRosy Blue (I) Ltd 2018 (13) GSTL 257 (Bom.) (iii) CCE Ahmadabad Vs Cadila Health care Ltd 2013 (30) STR 3 (Guj.)
66.	Telecommunication services	(i) Excel Crop Care Ltd Vs CCE, Ahmadabad 2008 (12) STR 436 (Guj) (ii) Ballarpur Industries Ltd Vs CCE Pune 2014 (36) STR 1122 (Tri. - Mumbai) (iii) Semco Electric Pvt Ltd Vs CCE, Pune 2013 (30) STR 572 (Tri - Mumbai) (iv) CCE & ST, LTU VsLupin Ltd 2012 (285) ELT 221 (T – Mum) (v) CCE, VapiVs ITW India Ltd. 2010 (17) STR 587 (Tri- Ahmd.)
67.	Works Contract services	(i) Fidelity Business Services India Pvt. Ltd Vs CCE Bangalore 2021 (50) GSTL 315 (Tri- Bang.) (ii) Mercedes Benz Research & Development India Pvt Ltd Vs CCE Bengaluru 2021 (51) GSTL. 391 (Tri. - Bang.) (iii) Ucal Fuel Systems Ltd Vs CCE Puducherry 2017 (48) STR 167 (Tri -Chennai)

4. Shri P. Gopakumar, Authorized Representative for the Respondent reiterates the findings in the impugned order in respect of the appeals 1697/2012 & 21886/2015 filed by Ms JSW and the grounds of appeal in respect of the department's appeal 21990/2015. He submits that the appeals filed by Ms JSW be dismissed and Revenue Appeal be allowed.

5. Heard both sides and perused the records of the case. We find that it would be beneficial to have a look at the relevant provisions of the cenvat credit Rules.

5.1. Rule 2 (l) of the CENVAT Credit Rules, 2004 defines "input service" during the relevant period up to 31.03.2011 as under:

Rule 2 (l): "input service" means any service, -

(i) used by a provider of taxable service for providing an output service, or

(ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products up to the place of removal,

and includes services used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage up to the place of removal, procurement of inputs, activities relating to business, such as accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, and security, inward transportation of inputs or capital goods and outward transportation up to the place of removal;

5.2. Rule 2 (l) of the Cenvat Credit Rules, 2004 as amended from 1.4.2011 (till 30.9.2011) is as under:

(l) *"input service" means any service,-*

(i) used by a provider of taxable service for providing an output service; or

(ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products up to the place of removal,

and includes services used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, *storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation up to the place of removal; but excludes services,-*

(A)specified in sub-clauses (p), (zn), (zzl), (zzm), (zzq), (zzzh) and (zzzza) of clause (105) of section 65 of the Finance Act (hereinafter referred as specified services), in so far as they are used for-

(a) construction of a building or a civil structure or a part thereof; or

(b) laying of foundation or making of structures for support of capital goods, except for the provision of one or more of the specified services; or

(B)specified in sub-clauses (d), (o), (zo) and (zzzzj) of clause (105) of section 65 of the Finance Act, in so far as they relate to a motor vehicle except when used for the provision of taxable services for which the credit on motor vehicle is available as capital goods; or

(C)such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee.

5.3. The Rule 3 (1) of the CENVAT Credit Rules, 2004

Rule 3. CENVAT credit.— *(1) A manufacturer or producer of final products or a [provider of output service] shall be allowed to take credit (hereinafter referred to as the CENVAT credit) of -*

(i) to (viii)

(ix) the service tax leviable under section 66 of the Finance Act; [* *]*

[(ixa) the service tax leviable under section 66A of the Finance Act;]

[(ixb) the service tax leviable under section 66B of the Finance Act;]

(x) to (xi)

<u>*paid*</u> *on -*

(i) anyinput or capital goods received in the factory of manufacture of final product or [by] the provider of output service on or after the 10th day of September, 2004; and

(ii) any input service received by the manufacturer of final product or by the provider of output services on or after the 10th day of September, 2004,

including the said duties, or tax, or cess paid on any input or input service, as the case may be, used in the manufacture of intermediate products, by a job-worker availing the benefit of exemption specified in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 214/86-Central Excise, dated the 25th March, 1986, published in the Gazette of India vide number G.S.R. 547(E), dated the 25th March, 1986, and received by the manufacturer for use in, or in relation to, the manufacture of final product, on or after the 10th day of September, 2004.

6. On going through the provisions of the Rules it appears that the definition of input service did give vast connotation before or after amendment making the services used directly or indirectly, in or in relation to the manufacture of the final products. Only change made after amendment is that certain services are excluded. We find that Various High Courts have interpreted to Rules to have a wider connotation rather than the constrictive view taken by Revenue. We find that Hon'ble High Court of Bombay in the case of Coca Cola India Ltd Vs CCE, Pune – 2009 (15) STR 657 (Bom) has held that the manufacturer is entitled to take credit on services used directly or indirectly, in or in relation to manufacture and clearance of the final products up to the place of removal and on various services as illustrated in the inclusive part of the definition; further they held, in the case of CCE, Nagpur Vs Ultra tech Cement Ltd – 2010 (20) STR 577 (Bom), that the definition of input service read as a whole makes it clear that the said definition not only covers services, which are used directly or indirectly in or in relation to the manufacture of final product, but also includes other services, which have direct nexus or which are integrally connected with the business of manufacturing the final product. In view of the same and in view of the judgments of various High Courts and this tribunal in respect of eligibility of individual services as tabulated above, we find that the appellants have correctly availed the credit on various disputed services. Accordingly, the impugned order does not survive and needs to be set aside. We do so. For the reasons cited above, the departments appeal against dropping of a portion of demand, vide impugned order, does not survive.

7. In the result, the impugned orders are set aside. Appeals 1697/2012 & 21886/2015 filed by Ms JSW are allowed and department's appeal 21990/2015 is dismissed.

(Order pronounced in the open court on 01/12/2021)

(S. K. MOHANTY)
JUDICIAL MEMBER

(P. ANJANI KUMAR)
TECHNICAL MEMBER

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