CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Appeal No. E/60656/2019-[SM]

(Arising out of Order-in-Appeal No. Appl/PKL/ST/07-08/2019-20 dated 10.05.2019 passed by the Commissioner (Appeals), Panchkula)

Liberty Shoes Ltd **......Appellant**
(Liberty Puram, 13th Miles Stone,
G T Road, Kutail Karnal, Karnal,
Haryana 132001)

VERSUS

Commissioner of C.E. & S.T., Panchkula **......Respondent**
(SCO No. 407-408, Sector 8,
Panchkula, Haryana 134119)

WITH

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APPEARANCE:

Mr. R.K. Hasija, Advocate for the Appellant

Mr. Vijay Gupta, Authorised Representative for the Respondent

CORAM: HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO. 60767-60768/2019

DATE OF HEARING/ DECISION: 19.09.2019

PER ASHOK JINDAL:

The appellants are in appeal against the impugned order wherein the ld. Commissioner (Appeals) has denied the Cenvat credit to the appellants on showroom maintenance charges, hotel management charges and photocopier charges on the ground that the said services are not 'input services' in terms of Rule 2(l) of the Cenvat Credit Rules, 2004 as the same have been availed beyond the place of removal.

2. The facts of the case are that the appellants are the manufacturer of shoes/footwear and selling the goods from their showrooms. The pattern of their business of manufacturing the footwear is that the appellants employed certain salesmen who used to go to various cities for selling their goods and stay in hotels. For those salesmen, the appellants incurred hotel expenses and availed Cenvat credit. Further, as the appellants are selling their footwear from their showrooms, the said showrooms are maintained by the appellants themselves and availed Cenvat credit for the services for maintenance thereof. The appellants also availed Cenvat credit on photocopy services for photo copies of the documents which are relevant to their business of manufacture of footwear for accounting purpose. The adjudicating authority allowed the Cenvat credit to the appellants relying on the decision of this Tribunal on merits in appellants' own case for the earlier period. But, the ld. Commissioner (Appeals) without following the decision of this Tribunal on merits denied the Cenvat credit to the appellants and held that these

services have been availed by the appellants beyond the place of removal. Against the said order, the appellants are before me.

3. Heard the parties and perused the impugned order.

4. On perusal of the impugned order, I find that the ld. Commissioner (Appeals) has given the findings that these services have been availed by the appellants beyond the place of removal. Admittedly, the appellants are selling the goods from their showrooms. If the goods are sold from the showrooms, in that circumstance, the showrooms are the place of removal. But the ld. Commissioner (Appeals) lost the sight to consider the fact to say which is the place of removal. When the appellants are selling their goods from showrooms only, therefore showrooms maintenance expenses are entitled for avail the Cenvat credit in terms of amended definition of input services w.e.f. 01.04.2011.

5. Further, the hotel expenses have been incurred by the appellants for the salesmen who were visiting various cities to sell of the product. Admittedly, without selling of goods, the question of payment of duty or manufacture of goods have no value. Any goods manufactured and sold attracts duty. Therefore, the goods manufactured by the appellants are required to be sold and the expenses incurred by the appellants upto selling of the goods are entitled as input services, therefore, on hotel expenses charges, the appellants are entitled to avail the Cenvat credit. Here, there is no question of place of removal of the goods, but ld. Commissioner (Appeals) illegally held that this service has been availed beyond the place of removal.

6. For photocopy service, the appellants have availed the Cenvat credit for photo copies of the documents which are relevant for maintaining their accounts. Admittedly, the services relating to the accounts have been incorporated in definition of input services, but ld. Commissioner (Appeals) failed to examine the said issue. As the photocopies service has been availed by the appellants for photo copies of their various documents for accounting and selling purposes; therefore, I hold that the appellants are entitled to avail the Cenvat credit thereon.

7. In view of the above findings, I do not find any merit in the impugned order; accordingly, the same is set aside.

8. In result, the appeals are allowed with consequential relief, if any.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMEBR (JUDICIAL)

RA_Saifi