CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
CHENNAI

Appeal No.E/159 to 161/2012

[Arising out of Order-in-Original No.47/2011 dt. 25.10.2011 passed by Commissioner of Central Excise, Chennai-III]

1. Orchid Chemicals & Pharmaceuticals Ltd.
2. Orchid Healthcare, Unit-I
3. Orchid Healthcare, Unit-II Appellant

Versus

Commissioner of Central Excise, Chennai-III Respondent

Appearance :

Shri M. Kannan, Advocate
For the Appellant

Shri S. Govindarajan, AC (AR)
For the Respondent

CORAM :

Hon'ble Ms. Sulekha Beevi C.S. Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of hearing / decision : 23.04.2018

FINAL ORDER No. 41286-41288 / 2018

Per Bench

The appellants are aggrieved by the disallowance of credit on outdoor catering services.

2. Ld. counsel for appellants Shri M.Kannan submits that the appellant has availed service tax credit on outdoor catering services which were used for providing canteen facility within the factory premises for the employees as mandated under Section 46 of the Factories Act.1948. He argued that it is a condition of service that the appellant has to provide canteen facilities to the employees and therefore these services are integrally connected with the manufacture of final products. It is however fairly conceded by the ld. counsel that the contribution was taken from the employees and the appellants are not eligible for the credit on that portion of the contribution that has been received from the employees. For quantifying the eligible credit, he requested that the matter may be remanded. He relied upon the decision in the case of *CCE Nagpur Vs Ultratech Cement Ltd.* - 2010 (20) STR 577 (Bom.) as well as *CCE Chennai Vs Bharat Heavy Electricals Ltd*. – 2016 (42) STR 815 (Mad.).

3. Ld. A.R Shri S.Govindarajan reiterated the findings in the impugned order.

4. Heard both sides. The period involved is prior to 1.4.2011 when the definition of ‘input services’ had wide ambit as it included various

services involving various activities related to business. The question whether outdoor catering services are eligible for credit has been decided in the cases relied upon by the Ld. counsel. Following the ratio already laid down, we hold that appellants are entitled to service tax credit. However, we take note of the fact that the appellants have received part of the contribution from the employees for providing outdoor catering services. Service tax credit to that portion which has been received from the employees is not eligible and therefore it requires to be quantified as to the quantum of credit appellant is eligible. We therefore deem it fit to remand the matter for the limited purpose of re-quantification of eligible credit. Impugned order is set aside and the appeal is thus allowed and remanded for the limited purpose of re-quantifying the credit by the adjudicating authority.

(dictated and pronounced in court)

(Madhu Mohan Damodhar)
Member (Technical)

(Sulekha Beevi C.S)
Member (Judicial)

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