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

ST/132/2012

(Arising out of Order-in-Appeal C. Cus. No. 4/2011 (M-ST) (D) dated 02.12.2011 passed by the Commissioner of Service Tax (Appeals), Chennai).

CCE & ST, Chennai : Appellant

Vs.

M/s. Scope International Pvt. Ltd. : Respondent

Appearance

Shri K.P. Muralidharan, AC (AR)
for the appellant

Shri Raghavan Ramabhadran, Advocate,
for the Respondent.

CORAM:

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

Date of Hearing/Decision: 1**0.05.2018**

FINAL ORDER No**.** **41507/2018**

Per Bench

Brief facts of the case are that the respondents filed refund clam for the month of August 2006 for refund of un-utilized credit of input services. After due process of law, the original authority sanctioned refund claim of an amount of Rs. 86,49,471/- being the eligible input service credit and disallowed an amount of

Rs.27,19,941/-. Aggrieved by the order of the original authority, the department filed appeal before the Commissioner (Appeals) and vide order impugned herein, the Commissioner (Appeals) upheld the sanction of refund. Aggrieved, department is now before the Tribunal.

2. On behalf of the department, the Ld. AR, Shri K.P. Muralidharan, AC, reiterated the grounds of appeal. He submitted that the respondent had followed Rule 4A of Service Tax Rules, 1994 in as much as they had not raised invoice within 14 days of rendering the service. Therefore, the authorities below ought not to have sanctioned the refund.

3. The Ld. Counsel, Shri Raghavan Ramabhadran supported the findings in the impugned order. He submitted that the issue whether respondent is eligible for refund on identical set of facts (grounds alleged) was considered by the Tribunal in the appellant's own case vide Final Order No. 40907-40908/2018 dated 20.03.2018. The other ground on which the credit has been sought to be rejected is that the appellant is not eligible for credit on the services of 'Rent a Cab' and Outdoor catering services'. That the period involved being prior to 01.04.2011, it is settled in various decisions that these services are eligible for credit.

4. Heard both sides.

5. The main ground alleged in the appeal filed by the department is that the respondent has followed Rule 4A of Service

Tax Rules by not raising invoices within 14 days of rendering services. This issue is settled in favour of the respondent in their own case, vide final order cited supra. It has been held therein that raising invoices within 14 days is a mere procedural requirement and not such condition has been laid in Notification No. 5/2006. The other ground raised is that the appellants are not eligible for credit on 'rent a cab service, outdoor catering services. The Hon'ble High Court in the case of *CCE Vs. Turbo Energy Ltd.* – 2015 –TIOL-629–HC-Mad. and the Hon'ble Bombay High Court in the case of *CCE Vs. Ultratech Cement Ltd*. - 2010 (20) STR 571 has held that these services are eligible for credit. On appreciation of facts and the case laws cited above, we are of the considered view that the impugned order calls for no interference. The appeal filed by the department is dismissed.

(Operative part of the Order pronounced in the open Court)

(MADHU MOHAN DAMODHAR)
MEMBER (TECHNICAL)

(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

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