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

Appeal No. ST/117/2012

(Arising out of Order-in-Appeal No. 80/2011 dated 30.11.2011 passed by the Commissioner (Appeals), Central Excise and Service Tax, LTU, Chennai)

Commissioner of Central Excise, LTU, Chennai   Appellant

Vs.

M/s. Sundaram BNP Paribas Asset
Management Co. Ltd.   Respondent

Appearance

Shri R. Subramanian, AC (AR) for the Appellant
Shri Rajaram Ramanan, Consultant for the Respondent

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

Date of Hearing / Decision: **10.05.2018**

Final Order No. **41469 / 2018**

Per Bench

Brief facts are that show cause notice dated 16.11.2009 was issued to the respondents proposing to deny CENVAT credit of Rs.9,53,032/- alleging that they have availed CENVAT credit on ineligible documents that is (i) invoices not addressed to the respondent but to M/s. Sundaram Mutual Funds (SMF) and that these services were rendered to SMF and not to respondent; (ii) some invoices did not contain the service tax registration number of the service provider, nature of services etc. and (iii) invoices relating to certain services namely travel, security, credit card personal payments, cargo for shifting of residence, gratuity insurance, entertainment expenses which are in the nature of welfare for the staff are not eligible input services. Subsequently, a corrigendum dated 21.12.2009 was issued revising the demand of CENVAT credit to Rs.21,68,715/- on the ground that the respondent has not furnished the entire details in respect of M/s. Fidelis Advertising & Marketing (P) Ltd. at the time of verification. After adjudicating the original authority confirmed an amount of Rs.21,68,120/- along with interest and imposed penalty. In appeal, Commissioner (Appeals) set aside the entire demand. Hence, department has preferred this appeal.

2. On behalf of Revenue, ld. AR Shri R. Subramaniam reiterated the grounds of appeal. He submitted that the documents furnished by the respondent for availing credit are not proper and valid documents. The invoices were addressed to SMF and not to the respondents. Further, the services are in the nature of staff welfare and are not eligible input services. The Commissioner (Appeals) ought not to have allowed the credit.

3. The ld. Consultant Shri Rajaram Ramanan appeared the argued the matter on behalf of the respondent. He submitted that the eligibility of CENVAT credit on some invoices were denied for the reason that these are not addressed to the respondents herein. He explained that in order to comply with contractual obligations, the respondents have engaged various input service providers and they received the services in connection with managing the affairs of SMF under Investment Management Agreement. Without these input services, respondents were not in a position to execute the various activities as contemplated in the agreement. Thus, these are input services which are required and used by the respondent in providing the taxable services of banking and financial services and applicable service tax was discharged by the respondent. They had furnished a statement giving the details such as voucher number, purchase order reference, cheque number, date of realization of cheque duly certified by the Chartered Accountant. This was verified by the range officer who submitted a report that though the services are in the name of SMF, the services have been availed by the respondent and that service tax was also paid by them. Thus, merely because the invoices were addressed to SMF, as the services were availed under Investment Management Agreement, the credit cannot be denied. With respect to

eligible of services like insurance for gratuity payment, outdoor catering service etc., he submitted that for the subsequent period, the very same input services were analyzed by the Commissioner and held to be eligible vide Order-in-Original No. 45/2018 dated 22.3.2018.

4. Heard both sides.

5. The main contention put forward by the ld. AR was that since the invoices are addressed to SMF and not in the name of the respondent, credit is not eligible. Proviso to Rule 9 of CENVAT Credit Rules states that whenever there is any doubt with regard to the requirement of necessary details in the documents for availing credit, the AC/DC has to verify the same and be satisfied that the same has been properly credited by the assessee. In the present case, the Commissioner (Appeals) has called for report from the range officer who has reported that the particulars as furnished by the Chartered Accountant is correct. In para 6.2 of the Order-in-Appeal, it has been categorically held by the Commissioner (Appeals) that these services were availed by the respondent and not by SMF.

6. With regard to services which were denied on the ground that they are not eligible input services, the period involved is prior to 1.4.2011 when the definition of 'input services' had a wide ambit as it included the words 'activities relating to

business'. The services are in the nature of insurance, outdoor catering service, advertisement services etc. These services except outdoor catering services were held to be eligible services for the respondent for the subsequent period as decided by the Commissioner in Order-in-Original cited supra. The outdoor catering services are eligible for credit for the reason that the period involved is prior to 1.4.2011.

7. In the result, we do not find any merit in the appeal filed by the department. The impugned order calls for no interference and the appeal is dismissed.

(Operative portion of the order was pronounced in open court)

(**Madhu Mohan Damodhar**)
Member (Technical)

(**Sulekha Beevi C.S.**)
Member (Judicial)

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