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

Appeal No. E/40241/2017

(Arising out of Order-in-Appeal No.335/2016 (CXA-II) dated 8.9.2016 passed by the Commissioner of Central Excise (Appeals – II), Chennai)

M/s. Kansai Nerolac Paints Ltd. Appellant

Vs.

CCE, Chennai – IV Respondent

Appearance

Shri Nasser Abdullah, Advocate for the Appellant
Shri S. Govindarajan, AC (AR) for the Respondent

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Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)

Date of Hearing / Decision: **28.05.2018**

Final Order No. **41626 / 2018**

Appellants are engaged in manufacture of paints and varnishes and are availing the facility of CENVAT credit on service tax paid on input services. Show cause notice was issued proposing to disallow CENVAT credit on various services and also alleged that the appellants had not distributed the credit proportionately on ISD invoices. After due process of law, the original authority confirmed the demand, interest and also imposed penalty. The appellant had also approached the Hon'ble High Court with regard to certain issues. In appeal filed against the order passed by the adjudicating authority, the Commissioner (Appeals), set aside the demand in respect of all services as well as the allegation that the appellant has not distributed credit proportionate on the ISD invoices and also the disallowance of credit on various services except for security services, mandap keeper services and public relations management services was set aside. Against the order passed by Commissioner (Appeals) disallowing credit on these three services, the appellant is now before the Tribunal.

2. The ld. counsel Shri Nasser Abdullah appeared the argued on behalf of the appellant. He submitted that the security services were utilized in safeguarding the products manufactured by them. The appellants manufacture branded products and there were several products in the market which adopted the brand name which caused damage to the image of the products of the appellant in the market. The security services were utilized to conduct raid in the premises of manufacturers of such duplicate products. The said services was therefore essential for the company to protect the image of its manufactured products. If such services are not utilized, the sub-standard products bearing the brand name of the appellant company would damage the reputation of the appellant–company and also damage the product image. Such substandard products using the brand name of the appellant=-company would lead to the public refusing to purchase the

company manufactured products and thereby causing serious hinder to the credibility of the products manufactured by the appellant. Thus, security services have been availed by the appellant to protect their reputation as well as that of products and is directly connected with the manufacturing activity. That the Commissioner (Appeals) has erred in disallowing the credit observing that these services have not been provided within the factory premises and therefore not eligible for credit.

2.1 Mandap Keeper Services were availed for conducting the Annual General Body Meeting (AGM) of the company. The said services has been denied stating that they have been availed outside the premises of the factory. As per Companies Act, the appellant-company has to conduct AGMs and therefore these services are directly connected with the activity of manufacture.

2.2 The Public Relations Management Services were availed by the appellant for the purposes of procuring advertisement. The company engaged services of media collators to provide the services in analysing the advertisement potentiality of various newspaper across the country so as to enable the company to advertise its products in the best possible manner. He submitted that the definition of input services includes market research as well as service of advertising and therefore the public relations management service which was availed by the appellant for analyzing the advertisement potentiality in various parts of the countries is integrally connected with the activity of manufacture. He prayed that the appeal may be allowed.

3. On behalf of Revenue, ld. AR Shri S. Govindarajan supports the findings in the impugned order. He submitted that security services are eligible only if they are availed within the factory premises. The services which have been availed for protection of image of products cannot be allowed. The mandap keeper services as well as public relations management service have not nexus with the manufacturing activity and has been rightly disallowed by the Commissioner (Appeals).

4. Heard both sides.

5. The ld. counsel has explained the purposes for which the security service has been availed by the appellant. The Commissioner (Appeals) has disallowed stating that it is not consumed within the factory. The definition of 'input services' has an includes part and the word "includes" has to be interpreted so as to enlarge the meaning and not in a restrictive manner. The security services have been specifically mentioned therein. It cannot be said that such services is merely giving security to the premises of the factory. When the appellant has to give security or safety to the image of its products, this also would fall within the security services as the appellant has engaged various agencies to conduct raid in the premises of manufacturers who are engaged in manufacture of duplicate products which are cleared using the brandname of the

appellant. Therefore, I am of the view that the said services are eligible for credit and the disallowance of credit is unjustified.

5.1 Mandap Keeper Services have been availed to conduct AGMs of the appellant-company. The said meetings being an indispensable programme of the company as laid down in the Companies Act, I am of the view that the disallowance of credit on this count is unjustified. The appellant is eligible for credit.

5.2 The Public Relations Management Services have been utilized by the appellant to procure proper advertisement or rather to analyse the market of each region so as to give proper advertisement in those regions. The intention of such market research and analyzing the potentiality of advertisement of each region so as to give region specific advertisement is necessary to augment manufacture. I find that the disallowance of credit on this count is unjustified and hold that the appellants are eligible for credit.

6. In the result, the impugned order disallowing credit on the above three services is set aside and the appeal is allowed with consequential relief, if any.

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

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

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