

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

**Appeal No.E/41556/2018**

[Arising out of Order-in-Appeal No.109/2018 (CTA-II) dt.19.03.2018 passed by the Commissioner of GST & Central Excise (Appeals-II) Chennai]

Nelcast Ltd

Appellant

Versus

Commissioner of GST & Central Excise,  
Chennai-Outer Commissionerate

Respondent

Appearance:

Sh.K.Vijayasimhudu, Sr. Advisor - Indirect Tax.  
For the Appellant

Shri K.Veerabhadra Reddy, ADC (AR)  
For the Respondent

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

Date of hearing / decision : 4.12.2018

**FINAL ORDER No. 42990/2018**

Brief facts are that the appellants are engaged in manufacture of Machined and Unmachined Iron Castings. They avail the facility of Cenvat credit on inputs, goods and input services. During the course of scrutiny of records, it was noticed that they availed Cenvat credit of service tax paid on Employees Group Insurance and Personal Accident Insurance Policies. The department was of the view that the credit is not eligible on these services. Show cause notice was issued proposing to recover the credit alongwith interest and to impose

penalties. After due process of law, the original authority allowed the credit dropping the proceedings. Against this, the department filed appeal before the Commissioner (Appeals) and vide order impugned herein, the Commissioner (Appeals) allowed the appeal filed by department, thus disallowed the credit and confirmed the demand, but however sustained waiver of penalty. Aggrieved, the appellants are now before the Tribunal.

2. On behalf of the appellant, the Ld.Sr.Advisor of the company, Sh.K.Vijayasimhudu appeared and argued the matter. He submitted that the insurance policies are aimed to compensate the workforce in the event of any accident or untoward incident that may lead to injury or demise during the course of employment. Such insurance is not merely a welfare measure, but the appellant is duty bound to have such policies as envisaged under Workmen Compensation Act. Even the policy is specifically taken as under the Workmen Compensation Insurance Scheme. Therefore the credit is eligible. He further submitted that in the appellant's own case for the period after 1/4/2011 also, vide OIA No.58/2013 (M-II) dated 21.10.2013 the said services were held to be eligible for credit. This was not considered by the lower authority.

3. The Ld.AR, Sh.K.Veerabadra Reddy supported the findings in the impugned order.

4. Heard both sides.

5. The issue is whether the appellants are eligible for availing the credit on the service tax on premium paid for insurance policies which are in the nature of group insurance and personal accident insurance. The original authority has discussed the provisions u/s.38 of Employees State Insurance Act, 1948 and Section 3 of the Workmen Compensation Act, 1923 as well as Fatal Accidents Act, 1855. He concluded that the policies are not issued in the name of any individual worker. The policy covers the risk involved for the workers at the work place only. After discussion with regard to the requirement and the nature of insurance coverage, the adjudicating authority dropped the demand. In the appellant's own case for the period October 2007 to May 2011, the department has allowed credit as per OIA No.58/2013 (M-II) dt.21.2.2013. The Commissioner (Appeals) have totally disregarded this decision. Instead of analysing the reason for allowing credit on such services after 1/4/2011, the Commissioner (Appeals) has brushed aside this order stating that major part is prior to 1/4/2011. I do not think this is sufficient reason to deviate from abiding the judicial discipline. The mechanical approach to issues without application of mind increases litigations.

6. The Hon'ble High Court of Madras in the recent decision in Civil Miscellaneous Appeal No.2926/2017 dt.19/9/2018 in the case of M/s.Ganesan Builders Ltd vs CST, Chennai in para 11, 12.2, 12.3 and 13, has observed that when the insurance policies have been taken for compliance under the labour legislations, the same are eligible for credit. In my view, the adjudicating authority had correctly analysed the facts and the law contained in sub-clause (C) of the definition of

input services and dropped the demand. The Commissioner (Appeals) has reversed the said decision without considering the facts of the case. From the discussions made above, and following the decision of the Hon'ble jurisdictional High Court, I am of the view that the credit is eligible. The impugned order is set aside. The appeal is allowed with consequential relief, if any.

(Operative part of the order pronounced in open court)

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

vsr