

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

**Appeal Nos.: E/40799, 40801, 40804 & 40805/2018**

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(Arising out of Orders-in-Appeal No. 24 to 27/2017 (CXA-II) dated 30.01.2017 passed by the Commissioner of Central Excise (Appeals), Chennai)

**M/s. Sun Pharmaceuticals Industries Ltd.,** : Appellant  
Sathammai Village, Karunguzhi,  
P.O. Madhuranthangam Taluk,  
Kanchipuram – 603 303

**Versus**

**The Commissioner of G.S.T. & Central Excise,** : Respondent  
Puducherry Commissionerate

Appearance:-

Ms. Nidhi Nawal, Advocate  
for the Appellant  
Shri. L. Nandakumar, AC (AR)  
for the Respondent

**CORAM:**

**Hon'ble Shri P. Dinesha, Member (Judicial)**

Date of Hearing: 19.11.2018

Date of Pronouncement: 07.12.2018

Final Order No. **43059-43062 / 2018**

These appeals are filed by the assessee against the Order passed by the Commissioner (Appeals) wherein the Credit on input services is denied. For the sake of convenience and since the services are common, the issues involved in all the above appeals are tabulated hereinbelow :

Sl. No.	Appeal No.	Period of dispute	Service/(s)
1.	E/40799/2018	July 2014	<ul style="list-style-type: none"> <li>• Telephone Service</li> <li>• GTA (Transport of Goods by road)</li> <li>• Security Service</li> </ul>
2.	E/40801/2018	August 2014 to September 2014	<ul style="list-style-type: none"> <li>• Telephone Service</li> <li>• GTA (Transport of goods by road)</li> <li>• Security Service</li> <li>• ISD Invoices</li> </ul>
3.	E/40804/2018	October 2014 to December 2014	<ul style="list-style-type: none"> <li>• Telephone Service</li> <li>• GTA (Transport of goods by road)</li> <li>• Security Service</li> <li>• Works Contract Service</li> <li>• Consultancy Service</li> <li>• Vehicle Maintenance Service</li> <li>• Catering Service (Tea bill expenses)</li> <li>• ISD Invoices</li> </ul>
4.	E/40805/2018	January 2015 to February 2015	<ul style="list-style-type: none"> <li>• Telephone Service</li> <li>• GTA (Transport of goods by road)</li> <li>• Security Service</li> <li>• Works Contract Service</li> </ul>

2. Today when the matter was taken up for hearing Ld. Advocate Ms. Nidhi Nawal appeared on behalf of the appellant and Ld. AC (AR) Shri. L. Nandakumar appeared on behalf of the Department.

3. I have heard the rival contentions, perused the documents placed on record and have also gone through the various judgements relied on in support by the Ld. Advocate for the appellant.

4.1 With regard to the denial of CENVAT Credit on **Telephone Services**, Ld. Advocate pointed out that primarily the CENVAT Credit on Telephone Service is eligible as per Rule 2(l) which is

covered under the inclusive definition and that telephone is used by the marketing officials for carrying out promotional activities of the appellant's finished goods. She relied on the following decisions in support of her contentions :

- *C.C.E., S.T. & Cus., Bangalore-II Vs. J. K. Fabrics (Bangalore) Pvt. Ltd. – 2015 (39) S.T.R. 315 (Tri. – Bang.);*
- *C.C.E., S.T. & Cus., Visakhapatnam-II Vs. Sri. Sarvaraya Sugars Ltd. – 2017 (3) G.S.T.L. 306 (Tri. – Hyd.);*
- *Sunbeam Generators Pvt. Ltd. Vs. Commr. of C.Ex. & S.T., Pondicherry – 2016 (45) S.T.R. 424 (Tri. – Chennai).*

4.2 With regard to **GTA/Courier** (Outward Transportation of finished goods), she submitted that the CENVAT Credit of service tax paid on the outward freight from the factory to the place of the customer being not available, the appellant itself had reversed the CENVAT Credit to an extent of Rs. 78,723/-. She relied on the following decisions :

- *Commissioner of C.Ex., Belgaum Vs. Vasavadatta Cements Ltd. – 2018 (11) G.S.T.L. 3 (S.C.);*
- *Commr. C.G.S.T. & C.Ex., Vadodara-II Vs. Gujarat Guardian Ltd. – 2018 (12) G.S.T.L. 300 (Guj.);*
- *Commissioner of C.Ex. & Cus. Vs. Parth Poly Wooven Pvt. Ltd. – 2012 (25) S.T.R. 4 (Guj.).*

4.3 With regard to the **Security Services**, she submitted that the drugs manufactured by the appellant are captively consumed by various units of the group company and hence, the final product is transferred to the appellant's godown at Pallavaram Unit for

selling to various distributors in the State of Tamil Nadu. She further elaborates that since all the goods are stored at the above Pallavaram Unit, the services of security are availed to protect against any possible theft, damage or loss. She relied on the following decisions to buttress her contentions :

- *Commr. of C.Ex. & Cus., Guntur Vs. Hindustan Coca-Cola Beverages Pvt. Ltd. – 2010 (18) S.T.R. 500 (Tri. – Bang.);*
- *DSCL Sugar Vs. C.C.E., Lucknow – 2014 (34) S.T.R. 58 (Tri. – Del.);*
- *Commissioner of Service Tax, Delhi Vs. Convergys India Pvt. Ltd. – 2009 (16) S.T.R. 198 (Tri. – Del.).*

4.4 With regard to **Works Contract**, Ld. Advocate submitted that the above service was used exclusively in the appellant's plant for clearing and maintenance of effluent treatment plant, for whitewash works of outside wall and for repairs and maintenance work. She further submitted that the definition of "input service" as per Rule 2(1) specifically includes services relating to modernization, renovation, repairs and maintenance of factory premises and hence, the CENVAT Credit on the Works Contract could not be denied. She placed reliance on the following judgements :

- *UCAL Fuel Systems Ltd. Vs. Commissioner of C.Ex., Puducherry – 2017 (48) S.T.R. 167 (Tri. – Chennai);*
- *Mahindra & Mahindra Ltd. Vs. C.C.E., Hyderabad-I – 2016 (45) S.T.R. 92 (Tri. – Hyd.);*

- *Anar Chemicals Pvt. Ltd. Vs. Commissioner of C.Ex., Ahmedabad* – 2011 (24) S.T.R. 32 (Tri. – Ahmd.);
- *C.C.E., Ahmedabad-II Vs. Cadila Healthcare Ltd.* – 2013 (30) S.T.R. 3 (Guj.).

4.5 She also submitted that all these issues are decided by various courts and in this regard placed reliance on the following judgements :

- *Agsar Paints Pvt. Ltd. Vs. Commissioner of Central Excise, Madurai* – 2011 (24) S.T.R. 422 (Tri. – Chennai);
- *Commissioner of C. Ex., Meerut-II Vs. Hindustan Coca-Cola Beverages Ltd.* – 2011 (271) E.L.T. 314 (Tri. – Del.);
- *DSCL Sugar Vs. Commissioner of Central Excise, Lucknow* – 2014 (34) S.T.R. 58 (Tri. – Del.);
- *Mahindra & Mahindra Ltd. Vs. Commissioner of C. Ex., Hyderabad-I* – 2016 (45) S.T.R. 92 (Tri. – Hyd.).

4.6.1 On the issue of denial of CENVAT Credit on **ISD invoices**, it is the case of the Revenue that the same was availed on Air Travel Agent Service, Hotel, Inn & Guest House Services, membership fee, etc.; that the above services availed on the ISD invoices were not eligible as the said services do not qualify as input services as per the definition of “input services” under the CENVAT Credit Rules (CCR), 2004.

4.6.2 On the contrary, Ld. Advocate for the assessee submitted that Rule 7 of CCR facilitated the definition by ISD of the CENVAT Credit availed in respect of the service tax paid on the

input services to its manufacturing units or units providing output service. She further contended that the appellant had availed CENVAT Credit on the ISD invoices from the Head Office at Mumbai and therefore, eligibility of CENVAT Credit should have been examined at the end of the ISD alone. She also relied on the following decisions :

- *Castrol India Ltd. Vs. C.C.E., Vapi – 2013 (291) E.L.T. 469 (Tri. – Ahmd.);*
- *Commissioner of Central Excise, Bangalore-I Vs. ECOF Industries Pvt. Ltd. – 2011 (23) S.T.R. 337 (Kar.);*
- *Commissioner of Service Tax, Ahmedabad Vs. Godfrey Philips India Ltd. – 2009 (239) E.L.T. 323 (Tri. – Ahmd.).*

#### 4.7 With regard to Vehicle Maintenance Services, Ld.

Advocate submitted that the appellant had availed the CENVAT Credit on the Maintenance and Repair Service of their own vehicles which were used for transportation of finished goods. She also submitted that the appellant used the above vehicles exclusively for transportation of raw materials inside the location for manufacturing and clearing the finished goods to the warehouses and since the vehicles are regularly used, the same require periodical maintenance. She therefore contended that the CENVAT Credit availed on the above service was eligible. She also relied on various judgements, namely :

- *Hindustan Petroleum Corporation Ltd. Vs. C.C.E., C. & S.T., Visakhapatnam – 2017 (47) S.T.R. 136 (Tri. – Hyd.);*
- *JSW Steel (Salav) Ltd. Vs. C.C.E., Raigad – 2016 (46) S.T.R. 863 (Tri. – Mum.);*
- *Birla Corporation Ltd. Vs. C.C.E., Bhopal – 2016 (46) S.T.R. 430 (Tri. – Del.).*

4.8 With regard to **Consultancy Services**, she submitted that the same was availed in respect of Civil Consultancy Services in the appellant's Pallavaram Unit which is used as a godown by the appellant and further contended that the place of removal also includes a warehouse where excisable goods were permitted to be stored. She also relied on the following Orders :

- *Bharat Fritz Werner Ltd. Vs. C.C.E., Bangalore – 2011 (22) S.T.R. 429 (Tri. – Bang.);*
- *Xilinx India Technology Services (P) Ltd. vs. C.C.E. & S.T., Hyderabad-IV – 2016 (44) S.T.R. 129 (Tri. – Hyd.);*
- *C.C.E., Delhi-III Vs. Mark Exhaust Systems Ltd. – 2017 (47) S.T.R. 167 (Tri. – Del.).*

4.9 With regard to the **Catering Services/Tea expenses**, she submitted that the above service primarily catered to the employees in the factory during the office hours. She relied on the following judgements :

- *Hindustan Petroleum Corporation Ltd. Vs. C.C.E., Visakhapatnam-I – 2017 (47) S.T.R. 33 (Tri. – Hyd.);*
- *Hindustan Coca Cola Beverages Pot. Ltd. Vs. C.C.E., Nashik – 2015 (38) S.T.R. 129 (Tri. – Mum.).*
- *Reliance Industries Ltd. Vs. C.C.E. & S.T., LTU, Mumbai – 2016 (45) S.T.R. 383 (Tri. – Mum.).*

5. *Per contra*, Ld. AR supported the findings of the lower authorities.

6. On going through the above judgements relied on by the Ld. Advocate, I find that the issues have been decided at various levels and the same are more or less settled which is also applicable to the period after 01.04.2011. Therefore, following the above judicial precedents, the appeals are allowed with consequential benefits, if any, as per law.

*(Pronounced in open court on 07.12.2018)*

**(P Dinesha)**  
Member (Judicial)

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