

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

Appeal Nos. ST/42080 & 42081/2018

(Arising out of Order-in-Appeal No. 217/2018 (CTA-II) dated 30.4.2018 and Order-in-Appeal No. 216/2018 (CTA-II) dated 30.4.2018 passed by the Commissioner of Central Tax (Appeals – II), Chennai)

M/s.BNP Paribas Global
Securities Operations P. Ltd.

Appellant

Vs.

Commissioner of GST & Central Excise
Chennai South

Respondent

Appearance

Shri Joseph Prabhakar, Advocate for the Appellant
Shri L. Nandakumar, AC (AR) for the Respondent

CORAM

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

Date of Hearing / Decision: **14.12.2018**

Final Order Nos. **43114-43115 / 2018**

The issue involved in both the appeals being common, they were heard together and are disposed by this common order.

2. On behalf of the appellant, Id. counsel Shri Joseph Prabhakar appeared and argued the matter. The issue involved in both these appeals is disallowance of CENVAT credit on event management service, maintenance charges and service tax paid on renting of bed sets and lab testing of food in the canteen.

With regard to the services for lab testing of food in the canteen, the Id. counsel submitted that the issue is not contested by the appellant. In regard to event management services, it is submitted by him that the said services were availed for conducting annual function of the company. He relied upon the decision in the case of Oceans Connect India Pvt. Ltd. Vs. Commissioner of Central Excise, Pune – 2016 (46) STR 858 to support his argument. The maintenance charges were paid incidental to the renting of immovable property service. The said charges are paid for maintenance of the premises and therefore are eligible for credit. With respect to the charges paid for renting of bed / bed sheets, Id. counsel submitted that during the time of flood that had occurred in November 2016, the houses of the employees were submerged in water and they could not go back to their residence for almost ten days. The company had to provide bed sets and bed sheets to them. That these items were taken on rent and the supplier had collected service tax from the appellant. Such provision is related to the output service provided by the appellant and therefore the credit is eligible.

3. The Id. AR Shri L. Nandakumar supported the findings in the impugned order. He submitted that the event management services are for conducting annual day and this cannot be said to be used for output service. With regard to bed rentals, he submitted that the said services cannot be considered as input

service at all. This was a one time affair wherein facility was provided by the appellant-company to accommodate the employees during the time of flood. These are not connected with the output services of the appellant and therefore credit has been rightly disallowed.

4. Heard both sides.

5.1 The impugned services are event management services, maintenance charges and bed rental charges. The issue with regard to lab testing of food in the canteen is not contested by the appellant and therefore the demand in respect of such services is upheld.

5.2 The event management services were availed by the appellant for conducting the annual day function. The appellant is a BPO service provider and have to undertake such events as per the circular and instructions issued by the higher officers. In the case of Oceans Connect India Pvt. Ltd. (supra) relied by the Id. counsel, the event management service has been held to be eligible for credit. Following the same, I hold that the credit availed in respect of event management service is eligible and therefore the appellants are eligible for the refund.

5.3 The authorities below have disallowed the credit on maintenance charges. These are incidental to the renting of immovable property and therefore I hold that the maintenance charges are eligible for credit.

5.4 With regard to service tax paid on bed rental charges, it is submitted by the Id. counsel that they have provided bed / bed sheets for the employees during the flood. However, the invoices do not indicate as to the details of such bed rentals. Further, the Id. counsel has submitted that the appellant would be able to furnish documents to substantiate that these are used for providing output services. Taking into consideration the plea of the appellant's counsel, I am of the view that the issue has to be remanded to the adjudicating authority who shall reconsider the issue after giving the appellant an opportunity to furnish evidence and for personal hearing. Ordered accordingly.

6. From the above discussions, the impugned order is modified to the extent of setting aside the demand in respect of event management services and maintenance charges. I hold that the appellant is eligible for credit / refund. The issue with regard to service tax paid for bed on rental charges is remanded to the adjudicating authority. The credit in respect of lab testing of food in the canteen is upheld. The appeals are partly allowed and partly remanded in the above terms, with consequential relief, if any.

(Dictated and pronounced in open court)

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

Rex