

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

Appeal No.E/42315-42317/2018

[Arising out of Order-in-Appeal Nos.325-327/2018 (GTA-I) dt. 03.07.2018 passed by Commissioner of Central Excise (Appeals-I), Chennai]

Rane Brake lining Ltd.

Appellant

Versus

Commissioner of GST & Central Excise,
Puducherry

Respondent

Appearance :

Ms.S. Sridevi, Advocate
For the Appellant

Shri L. Nandakumar, AC (AR)
For the Respondent

CORAM :

Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of hearing / decision : 28.12.2018

FINAL ORDER No. 43189-43191 / 2018

All the three appeals since relating to the same appellant and involving identical dispute, they are taken up for common disposal.

2. The common facts of these cases are that appellants, engaged in manufacture inter alia of Brake Lining, Disc Pads etc. had taken input service credit on outward transportation, car hiring, car repairing and outdoor catering services. Department took the view that the appellants could not have taken cenvat credit on the said input services. Accordingly, show cause notices were

issued to the appellants proposing recovery / demand of the said credit amounts availed, with interest thereon and also imposition of penalties under various provisions of law. The details of the said SCNs, disputed credit amounts involved and the amounts confirmed by original authority and penalty imposed as furnished by the Ld. Advocate are tabulated as under :

ISSUES	SCN No.01/2010 AC dt.05.03.2010	SCN NO.09/2010 – AC dt.16.12.2010 (This SCN was superseded by SCN No.LTUC/353/2010 – DC DT.13.2.2010. <u>And hence the figures mentioned in SCN is not considered</u>	SCN NO.LTUC/353/2010- DC DT 09.12.2010	SCN NO.LTUC/364/2011- DC DT 23.11.2011
Period of demand	Feb 2009 to Nov 2009		Dec 2009 to Nov 2010	Dec 2010 to March 2011
Details of credit availed	GTA-Rs.2,20,216 Car hiring- Rs.3416/- Canteen/ODC- Rs.1,21,216		GTA-Rs.1,59,770 Car hiring- Rs.18,841/- Canteen/ODC- Rs.1,69,248/-	GTA-Rs.53,506 Car hiring- Rs.3165/- Canteen/ODC-Rs.73,005
Order in Original No.	10/2018 dt.28.02.2018		12/2018 dt.28/02.2018	13/2018 dt.28.02.2018
Details of Credit allowed	GTA -Rs.2,20,216/-		GTA -Rs.1,59,770/-	GTA -Rs.53,506/-
Details of Credit denied in respect of car hiring and outdoor catering	Rs.3416/- + Rs.1,21,307/- Penalty Rs.1,24,723/- u/ R 15 (3) of CCR r.w.Sec 11 AC of CEA 1944	Rs.26,426/- (Common Penalty u/R 15 (1))		
Order in Appeal No.	325/2018 dt.03.07.2018	326/2018 dt.03.07.2018		327/2018 dt.03.07.2018
Total credit under dispute in the present appeal before Tribunal	Rs.3,88,982/- (in respect of rent a cab and outdoor catering)			

3. Appeals were preferred by appellants before Commissioner (Appeals) who rejected the appeals.

4. Today when the matter came up for hearing, on behalf of the appellants, Ms. S Sridevi submits that for impugned input services had been availed by the appellants prior to 1.4.2011 i.e. before the changes brought out about in the definition of 'input services' under Rule 2 (I) of the CCR 2004. She submits that prior to 1.4.2011 the said definition did not have any restrictions or bar for availing input credits in respect of canteen service , car hire. She further submits that that a number of Tribunal decisions have consistently upheld the eligibility of such input credits prior to 1.4.2011, for example, in *Scope International Pvt. Ltd. Vs CCE Chennai - 2018 (7) TMI 1007 – CESTAT Chennai*.

5. On the other hand, Ld. A.R Shri L.Nandakumar supports the impugned order.

6. Heard both sides and have gone through the facts. The only dispute in these appeals are pertaining to car repair and canteen services. I find that the Ld. Advocate is correct in her assertion that there was no restriction or bar in the definition of 'input services' in Rule 2 (I) ibid prior to 1.4.2011. The case laws cited by her also support her stand. In view thereof, the impugned orders to the contrary cannot sustain and will have to be set aside which I hereby do. Appeals are therefore allowed with consequential benefits, if any, as per law.

(dictated and pronounced in court)

(Madhu Mohan Damodhar)
Member (Technical)

