CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, SZB, CHENNAI

REGIONAL BENCH - Division Bench B3

Excise Appeal No. E/40655 - 40657 of 2019

(Arising out of Order-in-Appeal No. 588 - 590/2018 (CTA-II) dated 17.12.2018 passed by the Commissioner of GST & Central Excise (Appeals-II), Chennai).

M/s. Samsung India Electronics Pvt. Ltd., Appellant
Plot No. P-1, SIPCOT Industrial Park,
Phase-II, Sunguvarchatram,
Sriperumbudur Taluk,
Kancipuram District – 602 106.

Vs.

The Commissioner of Central Excise (Appeals-II) Respondent
CGST & CE, Newry Towers, 2054/1, II Avenue,
12th Main Road, Anna Nagar, Chennai – 600 040.

APPEARANCE:

Shri D. Santhana Gopalan, Advocate, for the appellant

Ms. T. Usha Devi, DC, Authorized Representative for the Respondent

CORAM:

HON'BLE MR P.DINESHA, Judicial Member

FINAL ORDER Nos. 40880-40882/2019

Date of Hearing: **19.06.2019**
Date of Decision**: 19.06.2019**

All the three appeals are arising out of a common impugned order dated 17.12.2018 against disallowance of Cenvat credit on the housekeeping services and hence are taken up together for disposal. The appellants are engaged in the manufacture of Colour Television, Washing Machines and Air conditioners etc., and are availing Cenvat credit on inputs, capital goods and input services.

2. The Brief facts, as canvassed by the Ld. Advocate for the assessee-appellant, are that the appellants were availing Cenvat credit of the excise duty availed credit on service tax paid for Housekeeping Services which were consumed in their branch offices. On verification of their records it was noticed that the appellant had wrongly availed service tax credit on "housekeeping services" based on the invoices issued by the Input Service Distributor (ISD) and utilized the same for payment of duty, thus contravening the provisions of Rule 3 (1), 2 (l)(ii) and Rule 14 of Cenvat Credit Rules, 2004 (CCR in short). The department was of the view that such services having been consumed in the branch offices had no nexus with the manufacturing activity and, therefore, not eligible for credit. Show-cause notices were issued proposing to disallow the credit and to recover the same along with interest and for imposing penalties. After due process of law, the original authority vide Orders-in-Original Nos. 3&4/2018 dated 23.03.2018, 16 & 17/2018 dated 09.08.2018 and 20/2018 dated 20.08.2018, confirmed the demand along with interest and imposed penalty proposed in the show cause notices. In appeal, the Commissioner (Appeals) vide common impugned order dated 17.12.2018 upheld the same. Hence these appeals.

3. Shri D. Santhana Gopalan, Ld. Advocate appeared on behalf of the appellant and Ms. T. Usha Devi, DC, Authorized Representative appeared for the Revenue.

4. Learned Advocate submitted that the appellant-assessee is aggrieved by disallowance of credit on Housekeeping Services which were availed in their branch offices. These services have been availed since the appellant is duty bound to keep the branch offices in a clean and hygienic manner as they come within the purview of Tamil Nadu Shops and Establishments Act, 1947. Under this Act, Section 20 of the Act read with Rule 5 mandates that the registered establishment be kept clean at all times and maintained in a good sanitary condition. He submitted that the issue is no more res integra and settled in favour of the assessees in the assessee's own case by this Bench of the Tribunal vide Final Order No. 42886/2018 dated 13.11.2018. He prayed that following the earlier order of this Bench, their appeals may be allowed.

5. Per contra, Ms. T. Usha Devi, Ld. AR supported the findings of the lower authorities.

6. I find that the issue on hand has already been settled in favour of the appellant-assessee in their own case and hence do not want to deviate from the view taken by this Bench. For better appreciation, the relevant portion of the Final Order No. 42886/2018 dated 13.11.2018 is reproduced as under:-

> "6. The issue is the eligibility of Cenvat Credit on Housekeeping Services availed in the branch offices of the appellant. It is settled law that in case of input services it is not essential that the said services should be availed within the factory premises. The branch offices maintained by the appellant have facilitated clearance of finished products and, therefore, are maintained in relating with the manufacturing activities. On such score, the Housekeeping services availed by the appellant at the branch offices, in my view is eligible for credit. Further, it is also incumbent on the appellant to keep the premises of the branch offices, which come under Tamil Nadu Shops and Establishments Act, 1947 in a clean and hygienic manner.
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> 7. From the above discussions and also following the decisions of the Tribunal relied by the counsel for appellant, I am of the view that the impugned order requires to be set aside, which were hereby to. The appeal is allowed with consequential reliefs, if any."

7. In view of the above, the impugned orders are set aside and the appeals are allowed with consequential reliefs, if any.

(Operative part of the Order dictated in the Open Court)

(P.DINESHA)
JUDICIAL MEMBER

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