

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

E/40649/2019

[arising out of Order-in-Appeal No.39/2019 (CTA-I), dated 23.01.2019
passed by the Commissioner of GST & Central Excise (Appeals-I), Chennai]

M/s.LUCAS TVS LTD.
NO.42 MTH ROAD
PADI
CHENNAI – 600 050.

APPELLANT

Versus

COMMISSIONER OF GST & CENTRAL EXCISE,
CHENNAI NORTH
26/1 MAHATMA GANDHI MARG
NUNGAMBAKKAM
CHENNAI – 600 034.

RESPONDENT

Appearance:

For the Appellant Shri N. Ramasamy, Cons.
For the Respondent Ms. T. Ushadevi, DC (AR)

CORAM:

Hon'be Smt. Sulekha Beevi C.S, Member (Judicial)

Date of hearing/decision **19-08-2019**

FINAL ORDER NO. **41033 / 2019**

Brief facts are that appellants are manufacturers of motor vehicle parts and accessories and are registered with the central excise department. It was found that during the period Jun.'16 to Jun.'17, the appellant availed input services credit on renting of crates used for carrying of final products to the buyer's premises. The department was of the view that such credit is not available as the services were availed beyond the place of removal. Show-cause notice was issued proposing to recover credit of Rs.23,27,087/- along with interest and also imposing penalties. After due process of law, the original

authority confirmed the demand along with interest and also imposed penalty. In appeal, the Commissioner (Appeals) upheld the same. Hence this appeal.

2. On behalf of the appellant, the learned consultant Shri N. Ramasamy appeared and argued the matter. He submitted that the appellant has availed GTA Services for outward transportation of goods upto the place of removal. However, the dispute in the present appeal is only with regard to the service tax paid on renting of crates, which were used for packing and stacking of automobile parts, supplied to the buyers upto their premises. The GTA Services availed by the appellant and the renting of the crates are entirely two different services. The department has confused the renting of crates with the outward transportation of finished goods and has held that the service tax paid on rent charges of crates is not eligible as these were availed beyond the place of removal. He relied upon the decision of the Tribunal in the appellant's own case reported in *2019 (1) TMI 427 - CESTAT CHENNAI*.

3. The learned Authorised Representative for the Revenue Ms. T. Ushadevi, DC (AR) appeared and argued for the department. She reiterated the findings in the impugned order. It was strenuously argued by her that the crates have been used for outward transportation of the goods upto the buyer's premises and, therefore, the credit has been rightly denied by the authorities below. After 01.04.2008, the definition of 'input services' has been amended so as to substitute the words 'from the place of removal' as "upto the place of removal". Thus, the credit in respect of transportation of goods is

eligible only upto the place of removal, which is factory gate and, therefore, credit has been rightly rejected.

4. Heard both sides.

5. The issue is with regard to the rejection of credit in respect of service tax paid for the hiring of crates. In paras 73-75, the appellant has enclosed the invoices with regard to the hiring charges paid on the crates. The service tax is paid for such hiring charges. The department seeks to deny the credit availed on service tax paid for hiring charges of crates. The crates have been hired by the appellant for use in stacking of the motor vehicle parts, which are supplied to the customers. As per the definition of 'input services', the restriction to avail credit upto the place of removal is applicable only for outward transportation of goods. In the present case, the input services availed by the appellant is renting of crates and not for transportation of goods. The renting of crates has nothing to do with GTA Services and merely because the crates have been used for supply of the goods to the buyer's premises, it cannot be said that the renting of crates is not eligible for credit. The decision relied upon by the learned consultant is in their favour where credit on the very same issue is allowed. From the above discussion and following the decision cited above, I am of the view that the rejection of credit is unjustified.

5. The impugned order is set aside. The appeal is allowed with consequential reliefs, if any.

(Dictated and pronounced in open court)

(SULEKHA BEEVI C.S)

MEMBER (JUDICIAL)

ksr
03-09-2019

	DRAFT			Remarks
	I	II	III	
Date of dictation	19.08.2019			
Draft Order - Date of typing	21.08.2019			
Fair Order Typing	03.09.2019			
Date of number and date of dispatch	04.09.2019			

