CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHENNAI

REGIONAL BENCH – COURT NO. I

Service Tax Appeal No. 41053 of 2019

(Arising out of Order-in-Appeal No. 17/2019 (CTA-II) dated 31.01.2019 passed by the Commissioner of Central Tax (Appeals-II): C.G.S.T. & Central Excise, Newry Towers, 2nd Floor, Plot No. 2054, I Block, II Avenue, Anna Nagar, Chennai – 600 040)

M/s. Sify Technologies Ltd., **: Appellant**
2nd Floor, TIDEL Park,
No. 4, Rajiv Gandhi Salai,
Taramani, Chennai – 600 113

VERSUS

The Commissioner of G.S.T. & Central Excise, **: Respondent**
Chennai South Commissionerate,
No. 692, Anna Salai, MHU Complex,
Nandanam, Chennai – 600 035

APPEARANCE:

Shri. Nitin Chopra, Advocate for the Appellant

Shri. S. Govindarajan, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

FINAL ORDER NO. 41171 / 2019

DATE OF HEARING: 17.10.2019

DATE OF DECISION: 17.10.2019

Today when the matter was taken up for hearing, Shri. Nitin Chopra, Ld. Advocate, appeared for the assessee and Shri. S. Govindarajan, Ld. Departmental Representative, appeared for the Revenue.

2. Ld. Advocate for the appellant submits that the denial of CENVAT Credit in the above appeal relates to Errors and Omissions Policy and Transit Insurance, which is already decided by this very Bench of the Tribunal in

the appellant's own cases for different periods reported in ***2018 (10) T.M.I. 563 – CESTAT Chennai*** and ***2019 (3) T.M.I. 345 – CESTAT Chennai.***

3. *Per contra*, Ld. AR for the Revenue vehemently contends that the denial of CENVAT Credit by the lower authorities is correct and thus, supports the findings of the lower authorities.

4. I have heard the rival contentions, perused the documents placed on record and gone through the orders of this Bench relied upon by the Ld. Advocate for the assessee.

5.1 This Bench in the appellant's own case reported in *2019 (3) T.M.I 345 (supra)* has observed as under :

> *"5. The appellant is aggrieved by the disallowance of credit of service tax paid on the premium on various types of insurance policies. The first policy is in the nature of errors and omission insurance policy. It is a form of insurance policy which covers the risk on failure to perform on the part of financial loss caused or shortage in the service provided or the products sold. The Tribunal in the appellant's own case cited supra had analyzed this issue with regard to errors and omission policies and allowed credit. Following the same, I am of the opinion that the disallowance of credit on errors and omission insurance policies is unjustified and requires to be set aside, which I hereby do.*
>
> *5.1 The second type of insurance policy is the transit insurance policy. The appellant has explained that such insurance policy is taken to cover the risk of accident or damage of the goods such as computers, routers etc. which are transported to the premises of the customer. The ld. AR has argued that place of removal being the appellant's premises, the said credit is not eligible. However, the appellant herein is not a manufacturer but an output service provider and the definition of input service would not be applicable to output service provider. Any input service used for providing output service is eligible for credit in the case of an output service provider. Hence disallowance of credit on this policy is unjustified and requires to be set aside, which I hereby do."*

5.2 On the other hand, Ld. AR for the Revenue was unable to file any contrary decisions of the Tribunal or of any other higher fora to deviate from the findings given in the above case.

6. In view of the above, the impugned order is set aside.

7. The appeal is allowed with consequential benefits, if any, as per law.

(Operative part of the order was pronounced in open court)

Sd/-

(P. DINESHA)
MEMBER (JUDICIAL)

Sdd