CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. III

Service Tax Appeal No.41416 of 2019

(Arising out of Order-in-Appeal No.98/2019 [CTA-II], dated 20.04.2019 passed by the Commissioner of GST & CE (Appeals-II), Chennai - 40)

M/s.Trimble Information Technologies India Pvt. Ltd. **: Appellant**
Tidel Park, Module No.603 & 604, 6th Floor,
Rajiv Gandhi Salai, Chennai 600 113.

VERSUS

Commissioner of GST & CE, **: Respondent**
Chennai GST South Commissionerate,
Nandanam, Chennai – 600 035.

APPEARANCE:

Shri M. Pandian, Cons. for the Appellant

Ms. T. Ushadevi, Authorized Representative for the Respondent

CORAM:

HON'BLE SMT. SULEKHA BEEVI C.S, MEMBER (JUDICIAL)

FINAL ORDER NO. 41265/2019

DATE OF HEARING: 18.10.2019

DATE OF DECISION: 18.10.2019

Brief facts are that the appellant had filed refund claim under Rule 5 for refund of the unutilised Cenvat credit. Partly refund claim was allowed by the original authority and against the said order, the appellant filed appeal before Commissioner (Appeals), aggrieved by rejection of part of their refund claim. The Commissioner (Appeals) rejected the claim in respect of input services in the nature of Car

Parking Charges as well as Renting of Immovable Property for the premises at Pune. So also, Consulting Fee and Telecommunication Charges, which were addressed to Pune office but the credit was availed by the appellant at Chennai office. Aggrieved by such order, the appellant is now before the Tribunal.

2. On behalf of the appellant Shri M. Pandian, Consultant appeared and argued the matter. He submitted that the appellant is mainly engaged in export of output services and there is limited DTA billing to the extent of premises share to the group companies. The Commissioner (Appeal) has rejected the refund claim in respect of car parking premises alleging that the said charges have no nexus with the output services provided by the appellant. Appellant is software exporting company and the Car Parking Charges were availed for parking facilities of the customers as well as the employees. The same has nexus with the output services provided by the appellant. The refund claim in respect of Renting of Immovable Property, Consulting Fee and Telecommunication Fee was rejected alleging that the invoices were addressed to Pune office. The learned consultant submitted that the appellant has taken a centralised registration. The offices at Pune are their own companies. The premises were not rented for facilitating export of services by the appellant. Since the appellant has taken Central Excise registration, the rejection of refund claim alleging that the invoices addressed to the Pune group company cannot sustain. He prayed that the appeal may be allowed.

3. The learned departmental representative Ms. T. Ushadevi appeared and argued on behalf of the respondent. She supported the findings in the impugned order.

4. Heard both sides.

5. The first issue is with regard to the rejection of refund claim in respect of Car Parking Charges. The appellant has given explanation that the Car Parking Charges was utilised for car parking of the customers as well as employees. I find that the rejection of

refund claim alleging that the appellant has not established the nexus cannot sustain. Further, with effect from 2012, Rule 5 of Cenvat Credit Rules, 2004 has been amended. Wherein, the services are availed by the provider of output service should export such services, the same would be eligible for refund.

6. The second is with regard to the rejection of refund claim with regard to invoices addressed to Pune office. The services given under this category are Renting of Immovable Property Services, Consultation Fee Services and Telecommunication Fee Services. The appellant has taken Central Excise registration and though the invoices are issued to their Pune address of the company, the credit availed by the Chennai office, which has centralised registration is legal and proper. For these reasons, I find that the rejection of refund claim on the above services cannot sustain. The impugned order to the extent of the above services required to be set aside, which I hereby do. The appeal is allowed with consequential reliefs, if any.

(Dictated and pronounced in the open court)

(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

ksr
28-10-2019