CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL CHENNAI

REGIONAL BENCH – COURT NO. IV

Appeal No.ST/40698/2019 - SM

[arising out of Order-in-Appeal No.688/2018 (CTA-II), dated 28.12.2018 passed by Commissioner of GST & Central Excise (Appeals-II), Chennai]

M/s.Astrazeneca India Pvt. Ltd. **Appellant**
Block A, Neville Tower,10th and 11th Floor,
Ramanujam IT City SEZ,
Rajiv Gandhi Salai [OMR]
Taramani, Chennai 600 113

VERSUS

Commissioner of GST & CE, **Respondent**
Perungudi Division,
Chennai South Commissionerate,
EVR Periyar Building,
4th Floor, No.690 Anna Salai,
Nandanam, Chennai – 600 035.

<u>Appearance</u>:

Shri N.V.S. Ramani, Consultant for the Appellant
Shri Arul C. Durairaj, Authorized Representative for the Respondent

CORAM : HON'BLE Ms. Sulekha Beevi C.S, MEMBER (JUDICIAL)

Date of Hearing : 18.06.2021
Date of Decision :18.06.2021

FINAL ORDER No. 41600 / 2021

The above appeal has been filed by the appellant against the order passed by Commissioner (Appeals) who rejected the refund in respect of service tax paid on Hotel Accommodation Services, Out-of-Pocket Expenses and General Insurance Services.

2. The learned consultant Shri N.V.S. Ramani appeared for the appellant. He submitted that appellant is an SEZ Unit and had applied

for refund of service tax under Notification No.12/2013, dated 01.07.2013. The Commissioner (Appeals) has rejected refund of service tax paid on Hotel Accommodation Services, Out-of-Pocket Expenses and General Insurance Service. The Hotel Accommodation Services were availed for the benefit of employees for their temporary settlement till they get accommodation as per the perks allowed by the company. The department in the appellant's own case for the subsequent period has allowed the refund in respect of Hotel Accommodation Services. In regard to Out-of-Pocket Expenses, he submitted that these were miscellaneous expenses and has been part of the invoices raised by the service provider. The consultant produced copy of the insurance policies to argue that the company has borne the cost of premium paid on insurance services. The various insurance services, which are in dispute in the present case are Group Term Life Policy, Group Gratuity Policy and Superannuation Policy. The Group Term Life Policy is to indemnify the risk of any work hazard or illness expenses of employees during the course of employment. The Gratuity Policy and Superannuation Policy indemnify the benefit that has to be paid to the employees while they are relieved or in case of death of the employees. The premiums for all these policies are borne by the company. He prayed that the refund may be allowed.

3. The learned Authorised Representative Shri Arul C. Durairaj supported the findings in the impugned order.

4. After perusal of records and hearing both sides, I am able to find that the refund in respect of Hotel Accommodation Services is availed only for the benefit of the employees. The same issue has been allowed in favour of the appellants in their own case for the subsequent period. For these reasons, I hold that the refund on this issue is eligible to the appellant.

5. In regard to Out-of-Pocket Expenses, there are no sufficient documents showing the details of these expenses or the type of services that have been availed by the appellants. I am of the view that the appellant is not eligible for the refund of service tax paid on

out-of-Pocket Expenses as they do not related to any particular service.

6. The next issue is with regard to the service tax paid on General Insurance Services. The learned consultant has produced documents to show that the premium has been borne by the appellant-Company and also to show that these are policies to meet the risk of payment of various legal benefits to employees. This said issue is covered by decision in the case of M/s. ATP Tyres Vs. CGST & CE – 2021 (3) PMI 681 CESTAT- CHENNAI and M/s. CMR Engineering Ltd., - 2019 (8) TMI 748 – TELENGANA and ANDHRA PRADESH. Following the above decisions, I hold that the refunds in respect of the two services are eligible. The appeal is partly allowed. The impugned order is set aside to the effect of allowing the refund in respect of Hotel Accommodation Services and General Insurance Services only. Rejection of refund in respect of Out-of-Pocket Expenses is upheld. The appeal is partly allowed with consequential reliefs, if any.

(Dictated and pronounced in open court)

(Sulekha Beevi C.S.)
Member (Judicial)

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