IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

REGIONAL BENCH - COURT NO. – III

EXCISE APPEAL No. 40070 of 2020
[Arising out of Order-in-Appeal No.317/2019 (CTA-I) dated 15.10.2019 passed by Commissioner of GST & Central Excise (Appeals-I), Chennai]

M/s.Godrej & Boyce Mfg.Co. Ltd. **Appellant**
No.1, SIDCO Industrial Estate,
Ambattur,
Chennai 60 098.

Vs.

The Commissioner of GST & CE **Respondent**
Chennai North Commissionerate
No.26/1, Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

WITH

EXCISE APPEAL No. 40071 of 2020
[Arising out of Order-in-Appeal No.318/2019 (CTA-I) dated 15.10.2019 passed by Commissioner of GST & Central Excise (Appeals-I), Chennai]

M/s.Godrej & Boyce Mfg.Co. Ltd. **Appellant**
No.1, SIDCO Industrial Estate,
Ambattur,
Chennai 60 098.

Vs.

The Commissioner of GST & CE **Respondent**
Chennai North Commissionerate
No.26/1, Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

AND

EXCISE APPEAL No. 40072 of 2020
[Arising out of Order-in-Appeal No.319/2019 (CTA-I) dated 15.10.2019 passed by Commissioner of GST & Central Excise (Appeals-I), Chennai]

M/s.Godrej & Boyce Mfg.Co. Ltd. **Appellant**
No.1, SIDCO Industrial Estate,
Ambattur,
Chennai 60 098.

Vs.

The Commissioner of GST & CE **Respondent**
Chennai North Commissionerate
No.26/1, Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

APPEARANCE:

Shri M.N. Bharathi, Advocate for the Appellant
Shri S. Balakumar, AC (AR) for the Respondent

CORAM :

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)

Date of Hearing: 02.07.2021
Date of Decision:02.07.2021

FINAL ORDER No. 41636-41638 / 2021

All the above appeals relate to the same issue of disallowance of service tax credit and hence were heard together and are disposed by this common order.

2. It is the case of the appellant that they had issued purchase orders for supply of furniture in the nature of Almirah etc. The said items were delivered to the site of the customer in CKD condition and thereafter assembled / installed at the premises of the customer. For such assembling / installation, the

appellant had sub-contracted the services. They had availed cenvat credit on the service tax paid for such installation / assembling services. The department is of the view that the appellant is not eligible to avail such credit alleging that such assembling / installation services are post-manufacturing activity.

3. Ld. Counsel Shri M.N.Bharathi appeared for the appellant. He referred to para-2 of the Statement of Demand to submit that there is no dispute that the appellant had raised purchase orders / entered into with the customers for supply of furniture in CKD condition. It was required by the appellant to assemble furniture at the premises of the customer for which the services were obtained from other service provider. The installation and assembling works are nothing but part of the manufacturing activity. The credit therefore is eligible as per the definition of input services. He referred to the earlier orders passed by the Tribunal in the appellant's own case wherein the very same issue was analysed and held in favour of the appellant vide Final Order No.41527/2016 dt. 8.9.2016. This was the period from January 2012 to September 2012. The present period of dispute is from November 2016 to April 2017. He prayed that the said decision would also cover the issue in dispute and the impugned period involved in these appeals.

4. Ld. A.R Shri S. Balakumar appeared for the department. He adverted to the order-in-original and submitted that

apartment from the argument raised by the Ld. Counsel for appellant, credit has been denied also for the reason that the appellant has not taken ISD registration and also for the reason that the credit invoices were raised in the name of their centralized office at Mumbai. When they have not taken ISD registration, they cannot distribute / transfer the credit to their unit in Chennai. It is further submitted by him that the said activity is a post-manufacturing activity for which the department has rightly denied the credit.

5. Heard both sides.

6. On going through the records, it is seen from the Statement of Demand as well as the earlier show cause notices referred in para-2 of the Statement of Demand that the main allegation raised against the appellant is that the credit is not eligible for the reason that the assembling / installation activity sub-contracted by them is a post-manufacturing activity. This issue is settled in favour of the appellant in the earlier periods for vide the decision of the Tribunal as cited supra. Though Ld. A.R has argued that there is another issue with regard to non-registering as ISD etc., this allegation has not been raised in the Statement of Demand or the earlier SCNs. When there is no allegation against the appellant, mere findings recorded in the order is of no consequence to deny the credit.

7. From the discussions made above, I am of the view that the credit has been wrongly disallowed. The impugned orders are set aside. Appeals are allowed with consequential relief, if any, as per law.

(Dictated and pronounced in open Court)

(**SULEKHA BEEVI C.S.**)
Member (Judicial)

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