CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

REGIONAL BENCH – COURT NO. IV

Service Tax Appeal Nos.40104 and 40105 of 2020 - SM

[arising out of Orders-in-Appeal No.294 & 295/2019(CTA-II), dated 12.10.2019 passed by Commissioner of GST & CE (Appeals-II), Chennai]

M/s.Maersk Global Service Centres (India) Pvt. Ltd., **Appellant**
Prince Infocity 2nd, 7th - 8th, 10th to 13th Floors,
No.286/1, Old Mahabalipuram Road,
Kottivakam,
Kandanchavadi,
Chennai 600 096.

VERSUS

Commissioner of GST & CE, **Respondent**
Perungudi Division,
Chennai South Commissionerate,
E.V.R. Periyar Building,
4th Floor, Anna Salai,
Nandambakkam,
Chennai – 600 035.

Appearance:

Shri Abhijit Saha, Advocate, *for the appellant*
Shri L. Nandakumar, Authorised Representative, *for the respondent*

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

Date of Hearing : 15.07.2021
Date of Decision : 15.07.2021

FINAL ORDER Nos.41686-41687/2021

Brief facts are that the appellants are engaged in providing Business Support Services and they export services. They availed

Cenvat Credit on the service tax paid on the input services for providing the output services. They later filed refund claim under Rule 5 of Cenvat Credit Rules, 2004 read with Notification No.27/2012-CE(NT), dated 18.06.2012 for the period from April, 2016 to June,2016 and from April, 2017 to June, 2017. After due process of law, the refund sanctioning authority partly rejected part of the refund claim. Aggrieved by the said order, the appellants filed appeal before Commissioner (Appeals), who disallowed refund of Cenvat credit of service tax paid in respect of Air Travel Agency Services, Short-term Hotel Accommodation Services, Cleaning Services and Pest Control Services, and also the refund claim in respect of Krishi Kalyan Cess. In appeal no.ST/40105/2020 all these services are involved whereas the issue in appeal no.ST/40104/2020 pertains to refund of service tax paid on Cleaning Services only.

2. Today, when the matter came up for hearing, the learned counsel for the appellant Shri Abhijit Saha appeared and argued the matter. He referred to the table in para 2 of the grounds of appeal and submitted that in appeal no.ST/40105/2020, an amount of Rs.8,35,836/- has been rejected by the Commissioner (Appeals). Out of this, an amount of Rs.20,990/- pertains to the credit availed on Krishi Kalyan Cess. The learned counsel submitted that the appellants are not contesting this issue with regard to Krishi Kalyan Cess.

2.1 With regard to the credit availed on Air Travel Agency Services, it is submitted by him that such services were availed to facilitate travel requirements of appellant’s employees and these services were not used for any personal consumption. He referred to various documents produced along with the appeal to establish his contention. Further, it is submitted by him that in the appellant’s own case vide Final Order Nos.42066-42069/2018, dated 13.07.2018, the very same issue was allowed in favour of the appellants.

2.2 The issue with regard to the credit availed on short-term Hotel Accommodation Services was explained by the learned counsel adverting to the documentary evidence in the nature of hotel invoices and the e-mails relating such accommodation availed by the employees. As an exporter of services, employees of the appellants are often required to travel both within and outside India to meet clients and short-term accommodation in hotels were availed by them. These services were entirely availed for accommodation for business purposes and not for personal consumption.

2.3 The learned counsel submitted that an amount of Rs.60,172/- in appeal no.ST/40105/2020 and an amount of Rs.7,22,430/- in appeal no.ST/40104/2020 was rejected in respect of Cleaning Services. These services were availed from M/s. Elite Chem-Dry Carpet and Tile, M/s. Laxmi Carpet Services and Maintenance for cleaning of carpets in its premises. The appellants also availed services from M/s. Best Practice Washrooms Pvt. Ltd., M/s. Washroom Hygiene Concepts Pvt. Ltd., and M/s. OCS Group (India) Pvt. Ltd., for servicing and installation of sanitary napkin machine, sanipod bin and feminine hygiene concept machines. The appellants have availed the services of B2C Vending Solutions, which are in the nature of facility management, which includes services, such as, House-keeping Services, Cleaning Services, Pest Control Services, Maintenance of Electrical Systems and other Operational Services for day-to-day operation of the appellants. The appellants submitted that these services are essential for keeping the premises in a hygiene condition and providing a healthy and effective work environment. Thus, there is a direct nexus between these services and the services exported. The above services are extremely essential for maintaining the premises in a clean and hygienic manner and, therefore, authorities below ought to have allowed the refund.

2.4 The Pest Control Services were availed by the appellants for keeping their office premises free from pests and to maintain proper working environment. He prayed that the appeal may be allowed.

3. The learned Authorised Representative Shri L. Nandakumar supported the findings in the impugned order. He argued that the appellants have to prove that the services have been availed for the use of Export Services which ought to have been clearly brought out by evidence. These are services availed for personal consumption only and, is excluded by clause (C) of definition of the "Input Services" in Rule 2(l) of Cenvat Credit Rules, 2004 as amended till date.

4. Heard both sides.

5. The details of the services, which are in dispute in these two appeals, are shown in the table below:-

Sl. No.	**Issue Description**	**Amount (in Rs.)**
01	Cenvat credit on Air Travel Services	2,80,312
03	Cenvat credit on Cleaning Services (in appeal no.*ST/40104/2020*)	7,22,430
04	Cenvat credit on Cleaning Services (in appeal no.*ST/40105/2020*)	60,172
05	Cenvat Credit on Pest Control Services	7,680
06	Krishi Kalyan Cess (KKC)	20,990
	Total	**15,98,266**

6. The learned counsel for the appellants have submitted that the Air Travel Services were availed by the employees for travelling for the purpose of their business, to meet their clients and also for attending workshops, seminars etc. Though, the authority below has denied the credit availed on these services alleging that these services

have no nexus with the output services, the department has no case that the services were not availed by the appellants for the purpose of providing output services. As also, there is no evidence to establish that these services were used for personal consumption. From the documents furnished before me, I am convinced that these services have been availed by the appellants for export of their output services. Further, this issue is covered by the decision of the Tribunal in the appellant's own case vide Final Order No.42066-42069/2018, dated 13.07.2018. I hold the rejection or refund of credit on these services is unjustified.

6.1 The short-term Hotel Accommodation Services are availed for the stay in hotel for attending workshop, seminars, meeting clients etc. This is clear from documents in the nature of Hotel Invoice, e-mail etc. It is established that these are not used for personal consumption. The learned counsel for the appellant has relied on the decision in the case of *M/s. GE Money Financial Services P. Ltd., Vs Commissioner of Service Tax, Chennai – 2019 (5) TMI 1569 (Tri.-Chennai)* to argue that the said decision has held that the credit availed on Hotel Accommodation Services is eligible. For these reasons, I hold that refund of credit is to be allowed.

7. I cannot find any reason to deny the credit availed on Cleaning Services, as these services are required to keep the premises of the appellants' office in a clean and hygienic manner. So also, is the case with pest Control Services. I hold that appellant is eligible for refund of credit on these two services.

8. The learned counsel has fairly stated that the credit availed on Krishi Kalyan Cess is not eligible and that they are not contesting the same. The refund denied under this head is upheld.

9. From the discussions made above, I hold that the refund of credit availed on the services, except Krishi Kalya Cess is to be

allowed. Appeal No.**ST/40105/2020** is partly allowed with consequential reliefs, if any. **Appeal No.ST/40104/2020** is allowed, with consequential reliefs, if any.

(Dictated and pronounced in open court)

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

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