CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL CHENNAI

REGIONAL BENCH – COURT NO. IV

Service Tax Appeal No.40324 of 2020 - SM

[arising out of Order-in-Appeal No.19/2020 (CTA-I), dated 12.02.2020 passed by Commissioner of GST & CE (Appeals-I), Chennai]

M/s. Chennai Container Terminal Pvt. Ltd. **Appellant**
Chennai Port Trust,
Gate "O", Chennai – 600 013.

VERSUS

Commissioner of GST & CE, **Respondent**
Royapuram Division,
No.459, Ananda Office Complex,
Anna Saiai, Teynampet,
Chennai – 600 018.

Appearance:

Ms. Sharanya Vijay, K. Advocate, *for the Appellant*
Ms. K.Komati, Authorised Representative, *for the Respondent*

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

Date of Hearing : 03.08.2021
Date of Decision : 03.08.2021

FINAL ORDER No. 41740 / 2021

The appeal is filed by the appellant aggrieved by the disallowance of credit availed on service tax paid in respect of on various services, namely, Outdoor Catering Services, Rent-a-Cab Services and Rental Charges paid towards their office situated in Mumbai.

2. On behalf of the appellant, the learned counsel Ms. Sharanya Vijay K. appeared and argued the matter. She submitted that the period involved is Apr.'10 to Mar.'11. In the appellant's own case for a different period, the Tribunal has allowed the credit in

respect of Outdoor Catering Service and Rent-a-Cab Service. In respect of the third service, namely, Rental Charges for their Mumbai Office, the learned counsel submitted that the original authority had allowed the credit. Against this order, department filed appeal before the Commissioner (Appeals), who considered the contentions raised by the department and disallowed the credit. She adverted to the discussions made by the original authority in para 16 of the Order-in-Original and submitted that since the appellant is using the premises at Mumbai office as their office for administrative function, the credit availed on this input services ought to have been allowed. That Commissioner (Appeals) has erred in observing that these premises are used by the Manager/Director of the company. The learned counsel adverted to the invoices furnished along with appeal paper book. She argued that the said premises were not used for the personal consumption of Manager/Director and was used as office of the company. The invoices are raised in the name of the company which would establish that the same is used for the activity relating to the company and, therefore, is eligible for credit. She prayed that the appeal may be allowed.

3. The learned Authorised Representative Ms. K. Komati appeared and argued for the department. She submitted that premises at Mumbai has been used by has been rightly disallowed on the service tax paid in regard to the rental charges.

4. Heard both sides.

5. The two services, on which credit has been denied are Outdoor Catering Service and Rent-a-Cab Service. These services were held to be eligible for credit in the appellant's own case for a different period as reported in *2018 – TIOL - 2411 –CESTAT – MUMBAI*. The next issue is with regard to eligibility of credit on service tax paid on rental charges. The department has denied the credit availed on service tax paid on the Rental Charges paid for their office at Mumbai. On perusal of the invoice submitted along with appeal paper book, it is seen that it is raised in the name of the appellant-Company. Though, the

department alleges that the premises is used by the Manager/Director of the company, they have not produced evidence to establish this allegation. The period is prior to 01.04.2011 and the definition of "input services" during such period included the words "activities relating to business". For these reasons, I find that the disallowance of the credit on these input services is unjustified.

6. From the discussions made above, I hold that the disallowance of credit for the Outdoor Catering Service, Rent-a-Cab Service and Rental Charges for their Mumbai office cannot sustain. The impugned order to this extend is set aside. The appeal is allowed with consequential reliefs, if any.

(Dictated and pronounced in open court)

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

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