# IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHENNAI

REGIONAL BENCH – COURT NO. I

**Service Tax Appeal No. 41501 of 2019**

(Arising out of Order-in-Appeal No. 145/2019 (CTA-II) dated 29.05.2019 passed by the Commissioner of G.S.T. and Central Excise (Appeals-II), Newry Towers, 2054/I, II Avenue, 12th Main Road, Anna Nagar, Chennai – 600 040)

**M/s. Olam Information Services Private Limited** **: Appellant**
Ascendas, Unit 2 & 3, 12th Floor, Zenith Building,
International Tech Park, CSIR Road,
Taramani, Chennai – 600 113

**VERSUS**

**The Commissioner of G.S.T. and Central Excise** **: Respondent**
Perungudi Division, Chennai South Commissionerate
690, EVR Periyar Maligai,
Anna Salai, Nandanam, Chennai – 600 035

**APPEARANCE:**

Ms. Radhika Chandrasekhar, Advocate for the Appellant

Ms. Sridevi Taritla, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)**

**FINAL ORDER NO. 40033 / 2022**

DATE OF HEARING: 18.01.2022

DATE OF DECISION: 18.01.2022

**Order:**

This appeal is filed against the impugned of Order-in-Appeal No. 145/2019 (CTA-II) dated 29.05.2019 passed by the Commissioner of G.S.T. and Central Excise (Appeals-II), Chennai, wherein the First Appellate Authority has upheld the denial of CENVAT Credit for the reasons assigned therein.

2. Heard Ms. Radhika Chandrasekhar, Learned Advocate for the appellant and Ms. Sridevi Taritla, Learned Additional Commissioner (Authorized Representative) for the Revenue.

3. I have considered the rival contentions and gone through the relevant documents/case-laws relied upon during the course of arguments.

4. The appellant made a refund claim under Rule 5 of the CENVAT Credit Rules, 2004 for Rs.53,84,832/-, being the unutilized CENVAT Credit of the Service Tax paid on input services used in providing output services, which were exported. The matter was taken up for adjudication and vide Order-in-Original No. 155/2018 dated 17.12.2018, the Adjudicating Authority sanctioned the refund to the extent of Rs.40,55,154/-, while rejecting the balance claim as ineligible CENVAT Credit insofar as the claim of the appellant related to the Service Tax paid on Air Travel Agent Service, Car parking Service, Hotel Accommodation Service, Foreign Exchange Service, Interior Decorator Service, Event Management Service and other input services (viz. updation of current trends in IT industry, SAP, etc. from M/s. Gartner India Research and Advisory Services Pvt. Ltd., expenses on IT conference paid to M/s. Entrine Business Services Pvt. Ltd., service of Mr. Vinod Sankaran, Service Tax charged by HDFC bank for EEFC fund conversion in INR, water supply service provided by M/s. Prince Property Management Services, consultancy service providing benchmark study in IT industry with respect to employee payroll provided by M/s. Aon Services India Ltd., services of M/s. Bharti Airtel Ltd. where address was mentioned wrongly in the invoices). On first appeal against that portion of the refund which was rejected, the First Appellate Authority vide impugned order allowed the refund in respect of Air Travel Agent Service, Foreign Exchange Service, Hotel Accommodation Service and Event Management Service, but however, upheld the

denial of refund in respect of the other services, against which the present appeal is filed.

5. In the above factual background, I find that in the appellant's own cases, as submitted by the Learned Advocate for the appellant, this Bench of the Tribunal vide Final Order No. 41538 of 2016 dated 09.09.2016 in Service Tax Appeal No. 42537 of 2015 and Final Order No. 40484 of 2020 dated 19.01.2020 in Service Tax Appeal No. 40481 of 2019, has considered the eligibility of the appellant and allowed the CENVAT Credit on:

- Cleaning Service
- Air Travel Agent Services
- Car Parking Service
- Banking and other Financial Services
- Interior Decorator Service
- Business Support Service
- Event Management Service
- Tour Operator Service
- Foreign Exchange Service (Forex purchase)
- Renting of Immovable Property Service

To this extent, therefore, the rejection of refund cannot sustain.

6.1 In view of the above, the denial of CENVAT Credit on the impugned services relating to:

1. Car Parking Service
2. Interior Decorator Service

is required to be allowed since the denial is held to be incorrect. To this extent, therefore, the impugned order is set aside and the claim of the appellant is directed to be allowed.

6.2 In respect of the service for update of current trends in IT industry, SAP, etc., provided by M/s. Gartner India Research and Advisory Service Pvt. Ltd., it is submitted by the Learned Advocate for the appellant that these services are used in relation to output service.

6.3 In respect of the payment made for an IT conference to M/s. Entrine Business Services Pvt. Ltd., it is the case of the appellant that the said service is in relation to its business.

6.4 In respect of the service of Mr. Vinod Sankaran, the appellant has submitted that the name of the supplier has been wrongly mentioned by the Department and that the actual service provider is M/s. Essel VKC Finance Ltd., who is a Forex service provider; that the services have been availed for getting the foreign exchange for the employees when they travel abroad on assignments and further, that invoice copies had been submitted before the First Appellate Authority, who has denied the credit without considering the same.

6.5 With regard to the Service Tax charged by HDFC bank for EEFC fund conversion into INR, it is submitted by the Learned Advocate for the appellant that the same is an eligible input service since it pertains to services used for providing output service; that relevant bank statements had been submitted before the First Appellate Authority, but the same had not been considered.

6.6 In respect of consultancy service which provides for benchmark study in IT industry with respect to employee payroll, etc., provided by M/s. Aon Services India Pvt. Ltd., it is the case of the appellant that these services have been availed for analysing the payroll system of its employees and hence, is an eligible input service.

7. It is seen that most of these services are very much essential in running the day-to-day business of the appellant and are necessary for the smooth functioning of its business. Surprisingly, the First Appellate Authority

has denied the refund has been denied for want of nexus. However, the Central Board of Excise and Customs (C.B.E.C.) has itself done away with the requirement of "nexus" vide its letter D.O.F. No. 334/1/2012-TRU dated 16.03.2012, which is binding on the First Appellate Authority as well. Hence, demanding of nexus is clearly contrary to the guidelines of the C.B.E.C. letter dated 16.03.2012, for which reason the impugned order denying refund on the above services cannot be sustained. The same is therefore set aside and to this extent, the appeal stands allowed with consequential benefits, if any, as per law.

8.1 In respect of water supply services, it is submitted by the Learned Advocate for the appellant that the appellant has an agreement for management of the property with M/s. Prince Property Management Services; that they also supply water which is used for cleaning purposes; that the same is an eligible input service since it is used for maintenance of property; that invoice copies pertaining to the said service had been furnished before the First Appellate Authority.

8.2 No explanation was offered for the above service, for which reason perhaps the authority has denied the benefit of refund. Before me, it is pleaded as above and the Learned Advocate for the appellant requested for a remand, for enabling the appellant to furnish supporting documents before the lower authorities. Hence, this issue is remanded back to the file of Adjudicating Authority, who shall consider all such documents that may be furnished by the appellant in support of its claim.

9.1 Lastly, with regard to the services of M/s. Bharti Airtel Ltd., the Learned Advocate for the appellant submitted that the said service has been incorrectly categorized by the Adjudicating Authority as insurance service; that the said service is a telecommunication service availed by the appellant and the appellant would be eligible for credit since it is used in providing the output service; that relevant documents/invoices pertaining to the above service had been furnished before the First Appellate Authority, but the refund was rejected without considering the same.

9.2 However, since there is no finding with regard to the verification of documents, this issue is also remanded to the file of the Adjudicating Authority for re-verification of the appellant's claim in the light of the documents which are produced or which were produced, again, for convenience.

10. The appeal stands partly allowed and partly remanded, as indicated above.

(Operative part of the order was pronounced in open court)

Sd/-
**(P. DINESHA)**
MEMBER (JUDICIAL)

Sdd