IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL SOUTH ZONAL BENCH, CHENNAI

Appeal No. ST/4028[illegible] 0/2017

(Arising out of Order-in-Appeal No.602/2016 (STA-I) dated 27.10.2016 passed by the Commissioner of Service Tax (Appeals – I), Chennai)

M/s. Amec Foster Wheeler India Pvt. Ltd. Appellant

Vs.

Commissioner of Service Tax, Chennai – III Respondent

Appearance

Ms. Sweta Giridhar, Advocate for the Appellant
Shri R. Subramaniyam, AC (AR) for the Respondent

<u>CORAM</u>

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

Date of Hearing / Decision: **26.10.2017**

Final Order No. 42397/2017

Brief facts of the case are that appellant is a global engineering and construction contractor and power equipment supplier. The appellant had entered into contract with Indian Oil Corporation Ltd. for rendering project management services, procurement services and engineering design services. During the period, appellant availed CENVAT credit of service tax paid based on the invoices raised by the service providers. The appellant availed input credit in respect of rent-

Customs, Excise & Service Tax Appellate Tribunal a-cab service, tour operator service, renting of immovable property, general insurance service (medi claim) and event management service. Department was of the view that these services had no nexus with the output services and hence issued show cause notice dated 21.10.2011 proposing to demand the wrongly availed input service credit along with interest during the period from April 2010 to March 2011 besides proposing to impose penalty. After due process of law, the original authority denied the credit and confirmed the demand. In appeal, Commissioner (Appeals) set aside the demand in respect of rent-a-cab service, tour operator service and renting of immovable property service but denied the credit on event management services and mediclaim services holding that they have no nexus with the output service. Hence the appellant has filed this appeal against denial of input service credit on these two services.

2. On behalf of the appellant, ld. counsel Ms. Sweta Giridhar submitted that the entire period of dispute is prior to 1.4.2011 when the term "activities in relation to business" was present in the definition of input service. She also relied on the judgment of the Hon'ble Bombay High Court in the case of Commissioner Vs. Ultratech Cement Ltd. - 2010 (20) STR 577 (Bom.). She also relied on the decision of the Tribunal in the case of PTC Software India Pvt. Ltd. Vs. Commissioner of Central Excise, Pune - 2014 (35) STR 632 (Tri. Mumbai) for

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availing the credit on insurance service and the judgment of the Hon'ble Karnataka High Court in the case of Toyota Kirloskar Pvt.Ltd. Vs. Commissioner of Central Excise, Bangalore – 2011 (24) STR 645 (Kar.) and the decision of the Tribunal in the case of HCL Techologies Ltd. Vs. Commissioner of Central Excise, Noida – 2016 (40) STR 369 (Tri. Del.) for event management services. She prayed that credits in respect of these two services may be allowed.

3. The ld. AR Shri R.Subramaniyam reiterated the findings in the impugned order.

4. Heard both sides.

5. As rightly contended by ld. counsel for the appellant, the definition of input services prior to 1.4.2011 included the words "activities relating to business" and therefore had a wide ambit covering almost all services. There are plethora of decisions which covers both the services which are impugned in the present appeal. Hence following the judgments/decision cited supra, I hold that the appellants are eligible to avail credit in respect of these two services also. The impugned order is set aside and the appeal is allowed with consequential relief, ifany.

(Dictated and pronounced in open court)

Sulekha Beevi

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

Rex

Customs, Excise & Service Tax Appellate Tribunal

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चेन्नै / CHENNAI