

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**  
**CHENNAI**

REGIONAL BENCH - COURT No. III

**Service Tax Appeal No.41445 of 2014**

(Arising out of Order-in-Appeal No.52/2014 ST dated 18.03.2014 passed by  
Commissioner of Central Excise (Appeals), LTU, Chennai)

**United India Insurance Co. Ltd.,**

**..... Appellant**

No.24, Whites Road,  
Chennai 600 014.

*VERSUS*

**The Commissioner of CGST & Central Excise**

**...Respondent**

Chennai North Commissionerate  
No.26/1, Mahathma Gandhi Road,  
Nungambakkam,  
Chennai 600 034.

**APPEARANCE :**

Shri Abhinav Hansaraman Advocate, for the Appellant

Shri M. Selvakumar, Authorised Representative for the Respondent

**CORAM :**

**HON'BLE MS. SULEKHA BEEVI.C.S., MEMBER (JUDICIAL)**

**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

**FINAL ORDER No.40683/2024**

DATE OF HEARING : 14.06.2024

DATE OF DECISION : 14.06.2024

**Per Ms. Sulekha Beevi. C.S**

Brief facts are that the appellant is engaged in providing the services of general insurance business and has centralized registration under general insurance business, insurance auxiliary services and renting of immovable property services. The appellant could not finalize their tax liability before the due dates for the reason that

required data would not reach them on time from their large number of branches. On the request of the appellant, the department ordered for provisional assessment for the year 2010-11.

2. On scrutiny of various documents along with the final returns for the period 2010-11, (prior to 01.04.2011), it was noted by the department that the appellant had availed Cenvat credit under the category of "service or repair of motor vehicles", (authorized service station). On verification of due invoices, it was found that the invoices were all addressed to the insurer, that is owners of motor vehicles or clients of the appellant. According to the department, these invoices did not conform to the particulars required to be stated as per clause (ii) of Rule (4A) of the Service Tax Rules 1994. For this reason, the appellant is not eligible for availing the credit.

2.1 It was also noted that the appellant had availed credit on various other input services under the category of Air Travel Agency, Catering Services, Rail Travel Agent, Rent a Cab Scheme, Operators and Club Membership, and Security Services provided to Guest House, Residents and Quarters of the officers. The department was of the view that these services had no nexus with the general insurance services provided by the appellant and therefore not eligible for credit.

3. Show cause notice was issued to the appellant proposing to disallow the credit availed as above, and recover the same along with interest and for imposing penalties. After due process of law, the original authority confirmed the demand along with interest and

imposed penalties. On appeal the Commissioner (Appeals) up held the same. Hence, this appeal.

4. The Ld. Counsel Shri. Abhinav Hansaraman appeared and argued for the appellant. On the first issue of disallowing credit availed on invoices for repair of motor vehicles, it was explained by the Ld. Counsel that the appellant has availed credit on the invoices issued by the authorized service stations. The appellant has reimbursed the amount to the authorized service stations. This being so, the appellant has availed the credit of the service tax which has been collected from them by the authorized service stations. The department has proceeded to deny the credit for the mere reason that the invoices bear the name of the client/owners of vehicle. Since the owners of the vehicle in effect have not paid any amount to the authorized service stations for repair of the vehicles, the credit availed by the appellant on the invoices are in accordance with the provisions of the service tax rules. To support the argument that the credit is eligible, the Ld. Counsel relied upon the decision in their own case rendered by the Tribunal in United India Insurance Company Limited versus CCE & ST for the LTU Chennai 2019(27) GSTL 252 (Tribunal Chennai).

5. On the second issue of disallowing the credit on various other services, the Ld. Counsel submitted that the period involved is prior to 01.04.2011. During the said period, the definition of input services had a wide ambit as it included the words "activities relating to business". The appellant has procured all these services for running their general insurance business and therefore the credit availed is in accordance with law.

6. The decision in the case of Commissioner of GST & CE Chennai versus Flextronics Technologies India P. Limited 2019 (366) ELT 340 Tribunal Chennai was relied to argue that these services are eligible for credit for the period prior to 01.04.2011. The Ld. Counsel prayed that the appeal may be allowed.

7. The Ld. AR Shri. M. Selvakumar appeared and argued for the department. The discussions made by the Commissioner (Appeals) in para 6 of the impugned order was adverted by the Ld. AR to argue that the invoices did not contain particulars as required under clause (ii) of Rule (4A) of the Service Tax Rules 1994. It is required to mention that the name and address of the person receiving the taxable services. The name of the owner of the car or the client has been mentioned and the invoices do not bear the name of the appellant. The credit has been therefore correctly disallowed.

8. With regard to the second issue of availing credit on various other services it is argued by the Ld. AR that these services are not connected or necessary for providing their output services. So, also security services have been availed by the appellant for security of the guest house, residence and other premises of the officers of the appellant, such services do not qualify as input services as per the definition under Rule 2 (I) of CENVAT Credit Rules 2004. The Ld. AR prayed that the appeal may be dismissed.

9. Ld. AR. Shri. M. Selvakumar, submitted that department has filed Miscellaneous application seeking to amend the cause title for the

reason of reorganization of the Commissionerate. LR. AR prayed that cause title change may be allowed.

10. Heard both sides.

11. The first issue to be decided is whether the disallowance of credit in respect of repair of motor vehicle services is legal and proper. The reason for denying the credit is that the invoices do not confirm to the Rules stipulated in clause (ii) of (4A) of the Service Tax Rules 1994. The said rules provide that the particulars in the nature of name and address of the person receiving the taxable service has to be mentioned. In the present case the invoices bear the name of the owner of the vehicle. The appellant has paid the consideration for the repair services to the authorized service stations. It is not the customer who has paid the consideration for the repair services even though the name of the customer is reflected in the invoices. The service tax along with the consideration for providing the service having been collected from the appellant, the department cannot deny the availment of credit alleging that the name and address of the customer mentioned in the invoices is not in accordance with law. Since the payment of service tax is not doubted or disputed by the department, the substantive right of Cenvat credit cannot be denied for technical reasons.

11. The Tribunal in the appellant's own case reported in 2019 (27) GSTL 252 (Tribunal-Chennai), (supra) had occasion to consider the issue and held that the credit is admissible. The relevant paragraph reads as under:-

6.1 The dispute is regarding the admissibility of Cenvat credit availed by the appellant on certain input services. Vehicle owners who have got their vehicles insured by the appellant, approach the ASS for carrying out the repairs. In cases where such repairs are covered by the insurance policies, the appellant pays for such repairs directly to the ASS (cashless settlement) and in other cases reimburses the vehicle owners for such repairs in full or in part. Such payments have been made by the appellant only as part of the settlement of the General Insurance claims for the insured vehicle.

6.2 The stand of the Revenue is that the service tax paid to the ASS as part of the repair bill cannot be considered as an input service under the definition 2 (I) of the CCR, 2004. From the definition of Rule 2 (I), the input service means any service used by a provider of taxable service for providing an output service. In this case, the output service rendered by the appellant is general insurance service. The question to be answered is whether the tax paid on the category of ASS can be considered as a service used for providing output service.

6.3 The connected question which has been discussed by the adjudicating authority is who is the recipient of service. There is no doubt that the service has been provided by the ASS. The adjudicating authority has taken the view that the ASS has provided the service only to the owner of the vehicle by repairing it. He has taken the view that such service cannot be taken as provided to the appellant or in parts to the appellant and the vehicle owner. In this connection it is not in dispute that the appellant has availed the credit only proportionately to the extent of amount borne by them.

The general insurance service provided by the appellant basically insures the vehicle against damages. It is obvious that such service can be provided to the customer ie., owners of the vehicle only by way of reimbursement of the repair charges. We are unable to see any other way by which the vehicle insurance service can be delivered to the customer. In this scenario, we are of the view that the service tax paid on the bill of the ASS is to be considered as falling within the definition of the input service which is used for providing the output service of the vehicle insurance.

6.4 The appellant has relied on the decision of the Tribunal in the *Paul Merchants case (supra)*. We have gone through the said decision in which the Tribunal has made a distinction between the beneficiary of a service and the recipient of the service. The Tribunal observed that "the service recipient is the one who is obliged to pay for the services to the service provider and whose need is satisfied by the provision of the service, in other ways it is the buyer of the service". By following the above analogy, we come to the conclusion that the appellant becomes the recipient of the service of ASS even though the beneficiary remains the owner of the motor vehicle.

6.5 The appellant has also referred to the TRU Circular dated 26.02.2010, in which the following clarification has been given:-

"2.2 A large number of health insurance schemes are being offered by the insurance companies under which charges for hospitalization, surgery, post-surgical nursing etc. are generally paid by the insurance company. Such insurance policies, which fall under the category of general insurance service, are already taxable. Under general insurance service, an insurance company is a service provider to its clients. Under the proposed new service, tax is also being imposed on the medical charges paid by the insurance companies to the hospitals on behalf of a business entity for its employees. As such, the insurance company would be the service receiver and the tax paid by the hospital would be available to the insurance companies as credit."

Even though the above clarification has been given in the context of health insurance services, we are of the view that the same is relevant for deciding the claim of the appellant for Cenvat credit. In the present case, the appellant being the service receiver will be entitled to the credit of service tax paid in terms of Rule 2 (I) *ibid*.

6.6 The Revenue has also raised the issue that the invoices issued by the ASS which is the document based on which the appellant has availed the Cenvat credit, is invariably in favour of the owner of the vehicle and is not in favour of the appellant. Hence, Cenvat credit cannot be allowed to the appellants. As discussed above, we have

*held that the above service is eligible to be considered as an input service for the appellant. In the peculiar facts and circumstances of the case, we appreciate that the invoices will be issued by the ASS only in favour of the vehicle owners who took the vehicle to them for repair. But it is a fact that the insurance claims will be admitted by the appellant only after proper survey and further from the record it is seen that the credit availed by them is restricted to the portion of the repair bill reimbursed by the appellant. There is also nothing on record to suggest that the owner of the vehicle has also made claims for Cenvat credit. Consequently, we are of the view that not having the invoice in favour of the appellant should be considered only as a procedural infraction and should not be used to deny the credit which otherwise they are eligible.*

*7. In view of the above discussions, we set aside the impugned order and allow the appeal.*

After appreciating the facts and following the above decision, we are of the considered view that the credit availed on 'repair of motor vehicle services' is eligible. The disallowance of credit in this regard is set aside.

12. The second issue is with regard to the credit availed on various services such as air travel agency, outdoor catering services, freight, rail travel agent, rent a cab scheme, club membership fees and security services. The period involved is prior to 01.04.2011. As correctly argued by the Ld. Counsel for appellant, during the relevant period, the definition of input services had a wide ambit so as to include almost all kinds of services as the definition contained the words "activities relating to business". The decisions relied by the appellant are applicable. For these reasons, we find that the disallowance of credit alleging that these services have no nexus with

the output services of the appellant cannot sustain. The appellant is eligible for credit.

13. From the foregoing, the impugned order is set aside. The appeal is allowed with consequential reliefs, if any.

(Order dictated and pronounced in the open court)

**(VASA SESHAGIRI RAO)**  
Member (Technical)

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