IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

Excise Appeal No.40592 of 2015

(Arising out of Order in Appeal No. 159/2014 dated 26.12.2014 passed by the Commissioner of Central Excise & Service Tax, LTU (Appeals – I), Chennai)

M/s. Rane Brake Lining Ltd. **Appellant**
Plot No. 30, Industrial Estate
Ambattur, Chennai – 600 086.

Vs.

Commissioner of GST & Central Excise **Respondent**
Chennai North Commissionerate
No. 26/1, Mahatma Gandhi Road
Nungambakkam, Chennai – 600 034.

APPEARANCE:

Ms. Varshini, Advocate for the Appellant
Shri Anoop Singh, Authorized Representative for the Respondent

CORAM

Hon'ble Shri M. Ajit Kumar, Member (Technical)

Final Order No. 40805/2024

Date of Hearing : 10.05.2024
Date of Decision: 08.07.2024

The present appeal is filed by the appellant against Order in Appeal No. 159/2014 dated 26.12.2014 passed by the Commissioner (Appeals – I), LTU, Chennai (impugned order).

2. Brief facts of the case are that the appellant is engaged in the manufacture of various brake linings, railway brake blocks etc. and avail CENVAT credit on the inputs, capital goods and input services under CENVAT Credit Rules, 2004. During verification, it was found that they have availed CENVAT credit on the service tax paid on the premium paid on product liability insurance policy of goods during August 2012. As it appeared that the said service do not qualify as

'input service' defined under Rule 2(l) of CCR, 2004, proceedings were initiated by issuance of Show Cause Notice. After due process of law, the original authority confirmed the demand of Rs.2,91,509/- along with interest and imposed penalty of Rs.30,000/- under Rule 15(1) of CCR, 2004. Aggrieved by the order, appellant preferred appeal before Commissioner (Appeals) who vide the impugned order rejected the appeal. Hence this present appeal.

3. I have heard Ld. Counsel Ms. Varshini for the appellant and learned Authorized Representative Shri Anoop Singh for the respondent.

3.1 The Ld. Counsel for the appellant submitted that during the period under dispute, the appellant had made payments towards insurance premium in respect of the Product Liability Insurance purchased by them. The risks covered under the insurance policy include product liability, product guarantee, financial loss and product recall insurance for Brake Linings, Disc Pads, Clutch Facings and Railway Brake Blocks. The appellant had incurred the said expenses in order to bear the financial loss if any that may occur due to defects in the finished products manufactured and cleared by them. The' department was of the opinion that the service of product liability insurance is availed beyond the 'place of removal' and since the credit of input services availed in or in relation to the manufacture 'upto the place of removal' is only admissible, the service availed by the appellant does not qualify as an input service and consequently the credit availed by then is also not admissible. Refuting the said contention the Ld. Counsel referred to the following judgments of this Tribunal in their own case allowing the impugned input credit:-

a. Rane Brake Lining Ltd. Vs. CGST & Central Excise – 2018 (7) TMI 611 – CESTAT Chennai

b. Rane Brake Lining Ltd. Vs. CGST & Central Excise, Puducherry – 2018 (11) TMI 1028 – CESTAT Chennai

c. Rane Brake Lining Ltd. Vs. CGST & Central Excise, Chennai North – 2019 (2) TMI 253 – CESTAT Chennai

She prayed that the impugned order may be set aside.

3.2 The learned AR supported the order passed by the authorities below. He prayed that the appeal may be rejected.

4. I have heard the rival parties. The issue raised by revenue is that the Product Liability Insurance is a service not used in or in relation to the manufacture of the final product and clearance up to the place of removal. It is seen from the definition of 'input service' as per Rule 2(l) of the CCR 2004 that the term 'upto the place of removal' is specific to 'outward transportation' and is not related to other services mentioned in the definition. Service like accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services etc are activities that are related to the pre and post manufacturing and clearance of the goods. They do not have any restriction for availment with regard to the place of removal or else the definition of 'input service' would be rendered redundant in as far as these services are concerned. In fact as per explanation (BA) to rule 2(l), service of general insurance business, servicing, repair and maintenance, in so far as they relate to a motor vehicle alone is not included. Since the impugned services are neither for personal consumption of staff nor are general insurance which relates to a motor

vehicle, input credit cannot be denied and the impugned order merits to be set aside.

5. The issue is no longer res integra as this very Tribunal has settled this issue in a series of judgments cited above. The decision in the case of the appellant reported at para 5 of the judgment reported in 2018 (7) TMI 611 (CESTAT – CHENNAI) is extracted below:-

> *"5. The first issue that arises for consideration is whether the appellant is eligible for credit of the service tax paid on product liability insurance. The department has denied the same on the ground that it is post-manufacturing activity and the liability arose only when the goods are handed over to the buyers. In fact, as per the explanation given by the appellant, it can be seen that the risk covers the defects with the product. In such cases, when there are defects to the product, the appellant / manufacturer will have to recall the product and thereby incur huge financial loss. The insurance is for covering the financial loss of the appellant / manufacturer and it cannot be considered as a post-manufacturing activity. The finance / raising a capital or adjustment of finances by way of taking insurance etc. falls within the inclusive part of the definition. This cannot be said to be a post-manufacturing activity for the reason that such insurance policies addresses the financial risks of the manufacturer. Further, in the case of Granules India Ltd. (supra), the Tribunal has held that the credit availed on directors' liability insurance is eligible. I find that the disallowance of credit on this input service is unjustified and requires to be set aside, which I hereby do."*

6. For the reasons discussed, the impugned order is set aside and the appeal succeeds. The appellant is eligible for consequential relief if any, as per law. The appeal is disposed of accordingly.

(Pronounced in open court on 08.07.2024)

(**M. AJIT KUMAR**)
Member (Technical)

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