CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>CHENNAI</u>

REGIONAL BENCH - COURT No. III

(1) Excise Appeal No. 41504 of 2017

(Arising out of Order-in-Original No.07 to 14/2017 (C) (C.Ex) dated 08.03.2017 passed by Commissioner of Central Excise, Puducherry Commissionerate, 1, Goubert Avenue, Puducherry 605 001.)

M/s.Hindustan Unilever Ltd. **.... Appellant**
(Soap & Detergent Division),
NH-45A, Vadamangalam Road,
Vadamangalam, Tirubhuvanai,
Puducherry 605 102.

VERSUS

The Commissioner of GST &
Central Excise, **... Respondent**
Puducherry Commissionerate,
No.1, Goubert Avenue,
Puducherry 605 001.

<u>WITH</u>

(2) Excise Appeal No.41505 of 2017 (Hindustan Unilever Ltd.)
(3) Excise Appeal No.41506 of 2017 Hindustan Unilever Ltd.)
(4) Excise Appeal No.41507 of 2017 Hindustan Unilever Ltd.)
(5) Excise Appeal No.41508 of 2017 Hindustan Unilever Ltd.)
(6) Excise Appeal No.41509 of 2017 Hindustan Unilever Ltd.)

(Arising out of Order-in-Original No.07 to 14/2017 (C) (C.Ex) dated 08.03.2017 passed by Commissioner of Central Excise, Puducherry Commissionerate, 1, Goubert Avenue, Puducherry 605 001.)

<u>APPEARANCE :</u>

Shri Viraj Reshamawala, Advocate for the Appellant
Smt. Anandalakshmi Ganeshram, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

FINAL ORDER Nos.40812-40817/2025

DATE OF HEARING : 27.03.2025
DATE OF DECISION :12.08.2025

Per: Shri P. Dinesha

Brief undisputed factual background as could be gathered from the impugned Orders-in-Original No.07 to 14/2017 (C) (C.Ex) dated 08.03.2017 passed by Commissioner of Central Excise, Puducherry are that M/s.Hindustan Unilever Ltd. (Soaps & Detergents), the Appellant herein, are engaged in the manufacture of Soaps and Detergents falling under the tariff items 3401 1190 and 3402 2010 respectively to the First Schedule of the Central Excise Tariff Act, 1985. They are availing Cenvat Credit of Central Excise duty paid on inputs and capital goods and Service Tax paid on input services and utilizing the same for payment of duty on their final products. Verification of records of the Assessee revealed that they had availed input service credit to the tune of Rs.6,59,85,852/- based on the ISD invoices issued by their Head Office located at Mumbai, local service provider bills and cyber receipts during the period from August 2010 to June 2011. They Assessee had availed Cenvat Credit to the tune of Rs.5,62,90,066/- during the said period on the following services based on the ISD invoices raised by their Head Office :

a. Advertising Agency service

b. Brand Promotion Service

c. Business Auxiliary Service (which included many unrelated services to manufacture like sales promotion events, hoardings, road shows, accounts, financial reporting, retainership of management and staff, management consultancy etc.)

d. Business Support Services

e. Commercial Training and Coaching

f. Information Technology and Software Service

g. Maintenance & Repair Service

h. Management or Business Consultant’s service

i. Manpower Recruitment or Supply Agency’s Service

j. Market Research Services

k. Online Information and Database Access

l. Photography Services

m. Security Agency Services

n. Technical Testing and Analysis Services

2. Entertaining a doubt that the said services on which they had availed input service credit were neither used directly or indirectly, in or in relation to the manufacture and clearance of their final products hence do not qualify as 'input service' for the purposes of availment of Cenvat credit and therefore service tax is liable to be demanded from them along with appropriate interest under Rule 14 of the CCR 2004 read with Section 11A (1) / Section 11AB of the Central Excise Act, 1944 along with penalty under Rule 15 (1) of CCR 2004 for the contravention of Rule 3 of the CCR 2004 read with Rule 2(l) ibid. The above resulted eight Show Cause Notices for different periods issued to the Appellant proposing to deny service tax credit availed by them on ineligible services and to recover the same under Rule 14 of CCR 2004 read with Section 11A (1) of Central Excise Act, 1944 along with interest and to impose penalty under Rule 15 (1) of CCR 2004.

3. The Appellant filed its detailed reply vide letter dated 24.04.2012. Considering their reply and upon adjudication, the Ld. Commissioner of Central Excise, Puducherry vide impugned Order-in-Original No.07 to 14/2017 (C) (C.Ex) confirmed the demands insofar as "Management or Business Consultant's Service" & "Business Support Service" but dropped demands proposed against other input services and imposed proportionate penalties under Rule 15 (1) of CCR 2004. It is against this partial disallowance of cenvat credit that the present appeals have been filed before us, but however, Revenue has not filed any appeal against the Orders-in-Original.

4. Heard Shri Viraj Reshamwala, ld. Advocate for the Appellant-Assessee and Smt. Anandalakshmi Ganeshram, ld. Assistant Commissioner for the Respondent-Revenue.

5. The only issue to be decided is whether, the service tax credit in respect of input services viz. 'Management or Business Consultant's Service' and 'Business Support Service' availed by the Appellant was in order?"

6. The issue involves the interpretation of Rule 2(l) of the CENVAT Credit Rules, 2004 [**CCR 2004** for short] amended with effect from 2011 and for convenience, the same is extracted herein below:

<u>Rule 2(l) of CCR 2004 after 01.04.2011</u>

> **RULE 2. Definitions.** — In these rules, unless the context otherwise requires, -
>
> "input service" means any service, -
>
> (i) used by a provider of output service for providing an output service; or
>
> (ii) used by a manufacturer, whether <u>directly or indirectly, in or in relation to the manufacture of final products</u> and clearance of final products upto the place of removal,
>
> and includes services used in relation to modernisation, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or <u>sales promotion</u>, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal;
>
> …
>
> ***Explanation***. - For the purpose of this clause, sales promotion includes services by way of sale of dutiable goods on commission basis.

[emphasis supplied by us]

7. We are not getting into the merits of other services since the impugned Order-in-Original has accepted the explanation of the Appellant and accordingly refrained from making any addition as proposed in the SCNs and that the Revenue has not chosen to file any Appeal.

8. In the decision of Hon'ble Bombay High Court in **Coca Cola India Pvt. Ltd. Vs CCE Pune** – 2009 (242) ELT 168 (Bom.) relied upon by the Appellant, following paras are extracted for convenience:

> **"25.** The expression Business is an integrated/continuous activity and is not confined restricted to mere manufacture of the product. Therefore, activities in relation to business can cover all the activities that are related to the functioning of a business. The term business therefore, in our opinion cannot be given a restricted definition to say that business of a manufacturer is to manufacture final products only……
>
> **26.** The definition of input service employs the phrase activity relating to business. The words relating to further widens the scope of the expression activities relating to business. This is in view of following observations of Supreme Court in *Doypack Systems (P) Limited* v. *Union of India* - 1988 (36) E.L.T. 201 (S.C.).
>
> **27.** Similarly, the use of the word activities in the phrase activities relating to business further signifies the wide import of the phrase "activities relating to business……."

> "Based on the same reasoning as in the aforesaid judgment of **Coca Cola** in the judgment of **Ultratech Cement Ltd**. – 2010 (10) S.T.R. 577 (Bom.), it was held that, credit of service tax paid on Catering services provided to employees in the factory is admissible and that, input service covers not only services used directly or indirectly in or in relation to manufacture of final products but also various services used in relation to business of

manufacture whether availed prior to manufacture or after manufacture."

9. The Hon'ble High Court of Madras vide its order dated 12.02.2018 in Civil Miscellaneous Appeal Nos.65 and 66 of 2018 and C.M.P.Nos.937 and 938 of 2018 in the case of **M/s. Rane TRW Steering System Ltd, Guduvancherry 603 202 Vs The Commissioner of Central Excise and Central Tax, Chennai 600 040** has interpreted the scope and applicability of Rule 2(l) and after a thorough analysis of a number of case law on the point, has held that:

'….

63. Though Mr.V.Sundareswaran, the learned counsel for the revenue pressed into service, a Hon'ble Division Bench judgment of this Court, in National Co-operative Sugar Mills Ltd., Vs. Commissioner of Central Excise, Madurai {2016 (344) ELT 832 (Mad), to which one of us is a party (Mr.Justice S.Manikumar), the said judgment, would not render any assistance, to the case on hand, for the reason that it was rendered with reference to the definition to Rule 2 (k) of the Cenvat Credit Rules, 2004, dealing with goods used in relation to the manufacture of the final product, whether directly or indirectly or in relation to the manufacture of final products and clearance of final products, upto the place of removal. Contention of the learned counsel for the revenue that input services should be restricted only to the manufacture of final product, either directly or indirectly cannot be countenanced. At this juncture, this Court deems it fit to consider a decision of the Hon'ble Supreme Court in Ramala Sahkari Chini Mills Ltd., Vs. CCE, reported in {2010 (14) SCC 744}, wherein the Hon'ble

Supreme Court held that the definition of input services, cannot be restricted…'.

10. In view of the above decisions of both the jurisdictional High Court as well as Bombay High Court, we have to hold that the impugned services constitute 'eligible services' and availment of credit by the Appellant is in order. Accordingly, we set aside the disallowance of credit made by the Adjudicating Authority. For the same reason, the penalties also cannot sustain. Impugned Orders-in-Original are set aside and Appeals are allowed with consequential benefits, if any, as per law.

(Order pronounced in open court on 12.08.2025)

(M. AJIT KUMAR)
Member (Technical)

(P. DINESHA)
Member (Judicial)

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