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

Excise Appeal No. 41984 of 2016

(Arising out of Order in Original No. 40/2016 dated 28.4.2016 passed by the Commissioner of Central Excise, Chennai – III)

Bharat Heavy Electricals Ltd. **Appellant**
Boiler Auxiliaries Plant
Indira Gandhi Industrial Complex
Ranipet – 632 406.

Vs.

Commissioner of GST & Central Excise **Respondent**
Chennai Outer Commissionerate
Newry Towers, 12th Main Road
Anna Nagar, Chennai – 600 040.

APPEARANCE:

Shri G. Natarajan, Advocate for the Appellant
Shri Anoop Singh, Authorized Representative for the Respondent

CORAM

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

FINAL ORDER NO. 41075/2025

Date of Hearing : 11.04.2025
Date of Decision: 30.09.2025

Per M. Ajit Kumar,

This appeal is filed against Order in Original No. 40/2016 dated 28.4.2016 passed by the Commissioner of Central Excise, Chennai – III) (impugned order).

2. Brief facts of the case are that the appellant had availed input service credit based on the Input Distributor Service Invoices issued by their Input Service Distributors "Cost Centres", via, their Corporate Office, New Delhi, Power Sector Marketing Office, New Delhi, Industry Sector Marketing Office, New Delhi, Regional Operations Divisions and

International Operations Division on the following services: 1.Maintenance or Repair Service, 2.Advertising Agency Service, 3. Telecommunication Servion, 4.Professional Charges for Patents, 5.Renting of Immovable Property, 6.Man Power Recruitment / Supply Agency Services, 7.Technical Testing Service, B.Air Travel Agent Service, 9.Courier Service, 10.Software Development, 11. Legal Consultancy Service, 12.Information Technology Software Service, 13.Packaging Service, 14. Erection, Commissioning or Installation Service, 15.Security Agency Service, 16.Business Auxiliary Service, 17.Scientific or Technical Consultancy Service, 18.Commercial Training Coaching or Technical Service, 19.Consultancy Services, 20. Facsimile services, 21. Banking & Financial Services 22.Cable operators, 23. Chartered Accountants, 24 Accommodation Services, 25.Convention Services, 26.Share Transfer Agent, 27.Membership service, 28. Insurance service, 29.Stock Exchange service, 30.Sponsorship service, 31.AMC Services, 32. Reverse Auction Services, 33. Civil Works Services, 34. Designing & Printing Services, 35. Finance Lease Service, 36. Work contract Service, 37.Cargo Handling Service, 38. Company Secretary service, 39. Directors sitting Fees 40. Rail Travel Agency service, 41. Generator Hiring Service, 42. Actuarial Valuation service, 43. Cleaning service and 44. Forex Service. Hence it appeared that the noticee had contravened the provisions of Rule 3 read with Rule 2(1) of CENVAT Credit Rules, 2004 in as much as they had not established that the services on which ISD credit availed had been used directly or indirectly, in or in relation to the manufacture and clearance of final products manufactured by their unit and consequently the service tax credit availed on input service distribution invoices during the period from September 2013 to July 2014 had become ineligible one and the same was required to be recovered with interest. Hence Show Cause Notice No. 58/2014-(CE) dated 8.10.2014 was issued to the appellant. The said SCN was confirmed by the Commissioner of Central Excise, Chennai III Commissionerate vide Order-in-Original No. 8/2015-CE. dated 28.5.2015. The appellant continued to avail such credits and had availed CENVAT distributed by their ISD (Cost Centres) during the period from August 2014 to May 2015. Hence a Statement of Demand No.24/2015 dated 07.08.2015 was issued to them and after due process confirmed by the impugned order. Hence the appellant is before us in appeal.

3. Ld. Counsel Shri G. Natarajan appeared for the appellant and Ld. Authorized Representative Shri Anoop Singh appeared for the respondent.

3.1 Shri G. Natarajan the Ld. Counsel for the appellant submitted that the entire Cenvat credit availed by the appellant, on the basis of invoices issued by their various other offices, which are registered as Input Service Distributors (ISD) has been denied. He submitted that the law is well settled by the Larger Bench of the Supreme Court in the case of **Ramala Sahkari Chini Mills Ltd. UP vs CCE., Meerut**, reported in 2016(234) ELT 3 (SC) that the activity which is integrally connected and contributory to the output as well as output services and inextricably linked, there cannot be denial of cenvat credit. In view of such ratio laid down, the appellant are entitled to cenvat credit availed on all the following cases. He submitted that similar demands for earlier period viz., Sep 2013 to July 2014 had already been set aside vide Tribunal's **Final Order No. 40851/2024 dated 11.07.2024** and Final order No. 42996/2018 dt 05.12.2018 in appeal No. E/40788/2018 and subsequent period viz., April 2016 to June 2017 also been allowed by lower appellate authority vide **Order in Appeal NO. 12/2022 dated 30.03.2022**, in appellants own case. The Ld. Counsel submitted a Table showing the nature of service for which credit is denied in the impugned order and giving the Final Order of this Tribunal whereby the credits pertaining to the said services has been allowed. The same is reproduced below.

S.No.	**Nature of service**	**Reason for disallowance of credit as in OIO**	**Appellant's submission**	**Purpose**	**Covered decisions**
1	Repairs and Maintenance (or) Annual Maintenace contract	Repair services in respect of factory building or office building alone is covered in the definition. (Page 60)	It is an inclusive definition. It is covered under the expression "any service used by the manufacturer, whether directly or indirectly, in or in relation to manufacture of final products and clearance of final products upto the place of removal"	Annual maintenance for Computer/AC and other office equipment	Final Order No.40851/2024 dt 11.07.2024 in Appeal No.E/41856/2015 of the appellant
2	Advertising Agency Services	Only advertisement of final products is eligible. (Page 60)	Advertisement specifically covered in definition.	Used for publishing tenders, recruitment notifications, etc.,	
3	Telecommunication,	These services are not covered in the definition. (Page 62)	Covered by the main part of the definition reproduced in (1) above. Air Travel service	Telephone/Internet	
	Professional Charges			Fees for Patent Registration for new invention	
	Renting of Immovable Property			Rent for Cost centres	

	Technical Testing		covered by the earlier order of this Tribunal.	Stability testing on the quality of the inputs to be used	
	Air Travel Agency/Rail travel			Ticket for executives towards marketing, meeting clients, negotiation etc.,	
	Courier Services/Packaging Services			Sending official documents/ communication with buyers etc.,	
	Software Development & IT Services			Software development for monitoring day to day affairs such as order monitoring, due date of delivery, realizing of pending payment, invoice / PO templates	
4	Manpower recruitment / supply service	No evidence to prove that they are used in or in relation to manufacture (Page 61)	The employed manpower is working directly or indirectly in or in relation to manufacture only	Manpower for office works/factory	Final Order No.40851/2024 dt 11.07.2024 in Appeal No.E/41856/2015 of the appellant
5	Erection, commissioning of installation of services, generators, UPS, etc.	Definition excludes, service portion in works contract service (Page 61)	Exclusion is only with reference to civil structure. Covered by earlier order of the Tribunal.	Installation of servers/generator/Ups etc, essential for functioning of office/factory	
6	Business Auxiliary Service, Business Support service, storage and warehousing service	No proof submitted / not covered in the definition (Page 61)	Covered under the definition	Sales promotion, Storage and warehouse of imported/export goods	
7	Scientific or technical consultancy service	These services are not covered in the definition. (Page 63)	Covered by the main part of the definition reproduced in (1) above.	Utilised these services for R& D purposes for development of new products/processes for mfr of final products	
8	Commercial coaching or training	Not used in or in relation to manufacture. (Page 63)	Used in or in relation to manufacture only.	Technical training to employees for proper execution of work	
9	Professional Consultancy service, including Legal consultancy, CA	These services are not covered in the definition (Page 63)	Covered by the main part of the definition	For finalizing tender documents	

	Services, Comp Sec services		reproduced in (1) above.		
10	Fascimile service	These services are not covered in the definition. (Page 67)	Covered by the main part of the definition reproduced in (1) above.	Similar to telecommunication services for using fax line	
11	Banking and financial services	Not used in or in relation to manufacture (Page 68)	Used in or in relation to manufacture only. Specifically covered in the definition.	LC charges, bank guarantee charges, bank charges for bills handlings	
12	Cable operator service	Cable connection in office (Page 64)	Covered by the main part of the definition reproduced in (1) above. Covered by earlier order of the Tribunal.	Cable connection in office/conference to remain updated with business news and development which is essential for efficient output	
13	Accommodation and convention service	Not pertaining to Ranipet employees (Page 64)	ISD credit. Remanded in the earlier order of the Tribunal. But in the impugned order the finding is different.	For conduction Annual General Meetings/floating renders/ acceptance of orders etc.,	Final Order No.40851/2024 dt 11.07.2024 in Appeal No.E/41856/2015 of the appellant
14	Share Transfer agent service	Noo nexus with manufacturing (OIO page 64)	Covered in the definition of input service	Being a public ltd company services of share transfer agent is essential for transfer of shares and registration/updation of same with ROC.	
15	Membership Service	Excluded from definition (Page 65)	Not excluded.	Subscription for Membership with Mangement/Engg institutes, trade /commerce association etc.,	
16	Insurance	Insurance of export goods is not eligible as it is beyond place of removal (Page 65)	Not excluded	Availed in respect of buildings, equipments, stock, etc.	
17	Stock exchange	Claim that the services are used to monitor the fluctuations is not true. (Page 65)	Covered in the definition	Appellant is public Ltd.; company registered with Stock exchange and covered under share registry services(main)	

18	Civil works	The claim that these pertain to repairs of buildings, etc. is not true. (Page 65)	Not excluded from the definition. But in the impugned order the finding is different.	Renovation of factory building/office premises. Repairs and renovation of factory or office is entitled for credit	
19	Designing and printing	These services are not covered in the definition. (Page 65)	Covered by the main part of the definition reproduced in (1) above. Covered by earlier order of the Tribunal.	Printing of tender docs/house journals/annual reports etc.,	
20	Finance lease charges	These services are not covered in the definition. (Page 66)	Covered by the main part of the definition reproduced in (1) above. Covered by earlier order of the Tribunal.	Purchase of computers/printers/on finance lease. Similar to banking and financial services.	
21	GTA Services	No evidence to prove it is for transportation (Page 66)	Covered by the definition	Inward and outward transportation of manufactured goods upto the place of removal	Final Order No.40851/2024 dt 11.07.2024 in Appeal No.E/41856/2015 of the appellant
22	Sponsorship Services, Cargo Handling Services/CHA services	Not proved with document as to how it is connected. (page 66)	Services indirectly related to manufacture and clearance of goods	Sales promotion/business development involves display of banner/booklets in events, import of goods used in manufacture.	
23	Reverse Auction, services, Directors Services, Rail Travel Agency, Generator Hiring services, Actuarial Valuation Services, cleaning Services, Forex Services.	Not covered in the definition (page 66)	Services indirectly related to manufacture and clearance of goods	All are connected with the manufacturing of goods.	

The Ld. Counsel further submitted that department has denied the credit at the end of the manufacturing unit which has availed the distributed credit. However, there is no allegation that the provisions of Rule 7 of CCR 2004 for the distribution of credit has not been complied. Further, there is no dispute raised by the jurisdictional authorities against the input service distribution centres for availing the credit and distributing the same, therefore department cannot deny the credit at the end of the appellant being manufacturing unit on vague allegations. In view of the foregoing he submitted that the disallowance of cenvat credit vide the impugned order, is not at all sustainable. Accordingly, the demand of interest and imposition of penalties are also not sustainable. Further, in as much as the disputed credit has not been utilized, neither any interest can be demanded nor any penalty can be imposed. Hence it is prayed that the impugned order may kindly be set aside and the appeal may kindly be allowed.

3.2 The Ld. Authorized Representative Shri Anoop Singh, for the respondent-revenue has reiterated the findings in the impugned order.

4. We find that the impugned order pertains to the period August 2014 to May 2015. Similar input credits taken during the earlier period Sep 2013 to July 2014 have already ben decided in the appellants favour vide FINAL ORDER No.40851/2024, Dated: 11.07.2024, in the appellants case as stated in the Table above. The relevant portion is reproduced below:

> "19. On perusal of the impugned order, other than alleging that these services are not used directly or indirectly or in relation to manufacture of final products, there is no specific finding to deny the credit. As correctly argued by the Ld. Counsel for appellant, the Cost Centres which are registered as input service distributors have to file periodical returns declaring the credit availed by them. These ISDs are subject to verification and audit by the jurisdictional authorities. There has been no dispute raised against these Cost Centres (ISDs) alleging that they have availed ineligible credit.
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> 20. The department has sought to deny the credit at the end of the manufacturing unit which has availed the distributed credit. There is

no allegation that the provisions of Rule 7 of Cenvat Credit Rules 2004 for distribution of credit has not been complied. The show cause notice is very vague in alleging that the appellant has not established that the credit is utilized for manufacturing activity.

21. When there is no dispute raised by the jurisdictional authorities against the input service distribution centres for availing the credit and distributing the same, the department cannot deny the credit at the end of the manufacturing unit on very vague allegations. The show cause notice does not make any specific allegation with respect to particular input service.

22. In the appellant's own case for a different period the very same issue of disallowing credit at the manufacturing unit distributed by the Cost Centres and has been considered by the Tribunal vide Final Order No.42996/2018 dated 05.12.2018 in Appeal No E/40788/2018.

23. Almost all the services listed in the above table was held to be eligible for credit by the Tribunal, by the Commissioner (Appeals) and by the adjudicating authority as pointed out by the Ld. Counsel. The appellant has given the details of the case law in respect of each input service in the last column of the table. We find that the decisions in the appellant's own case as well as the decisions passed by the Tribunal in other appeals applies to the issue of eligibility of credit on the disputed input services.

24. In respect of outdoor catering services, it is seen that the services have been availed prior to 01.04.2011. So, also in the case of works contract services/ civil work these are availed for repair and maintenance as well as modernization and not of setting up of a factory. There is no allegation by the department that such civil works were availed for setting up of a factory.

25. We find that all the services are eligible input services. The credit cannot be denied on such vague allegations at the end of the manufacturing unit without disputing the credit availed by the input service distributor. For these reasons we find that the impugned order cannot sustain.

26. In the result the impugned order is set aside. The appeal is allowed with consequential reliefs, if any."

For the subsequent period viz., April 2016 to June 2017 also similar input credits have been allowed by the First Appellate Authority vide Order in Appeal NO. 12/2022 dated 30.03.2022. It has not been informed to us by either of the parties that the said orders have been varied or set aside or are pending in appeal. This being so we feel that the impugned order merits to be set aside.

5. Accordingly, we set aside the impugned order and allow the appeal. The appellant is eligible for consequential relief, if any, as per law. The appeals disposed of accordingly.

(Order pronounced in open court on 30.09.2025)

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

(**P. DINESHA**)
Member (Judicial)

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