CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL NEW DELHI.

PRINCIPAL BENCH - COURT NO. II

Excise Appeal No. 50323 of 2019-SM

(Arising out of order-in-appeal No. 1191(CRM)CE/JDR/2018 dated 30.10.2018 passed by the Commissioner (Appeals), Central Excise and Central Goods, Service Tax, Jodhpur).

Hindustan Zinc Limited **Appellant**
Yashad Bhawan, Udaipur-313004.

VERSUS

Commissioner, Central Goods & Service Tax **Respondent**
142-B, Hiran Magri, Udaipur.

APPEARANCE:

Shri Dhrub Tiwari, Advocate for the appellant
Ms. Tamanna Alam, Authorised Representative for the respondent

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO. 50666/2020

DATE OF HEARING/DECISION: 12.03.2020

ANIL CHOUDHARY:

The issue involved in this appeal is allowability of cenvat credit on services utilised in the factory of production, the details of which are as follows:-

Service in dispute	Credit Amount (Rs.)	Service utilised	Relevant case laws relied by the appellant
Road work over jarofix yard site	2,17,401/-	Jarofix yard site is a statutory compliance under Environment law and road work provides for smooth and easy transportation to environmental site. Thus, service used in relation to manufacturing activity.	- Hindustan Zinc Ltd. v. CCE&ST, 2016 (9) TMI 942-CESTAT, New Delhi. - Hindustan Zinc Ltd. v. CCE, 2017 (7) TMI 387-CESTAT, New Delhi. - Indian Farmers Fertilizer Coop. Ltd., v. CCE, 1996 (86) ELT 177 (SC)
De- sludging of sludge sand	74,509/-	Required for removal of environmental waste and the same is in compliance under the Environmental law. Thus, service used in relation to	

		manufacturing activity.	
Installation of speed breaker	15,549/-	Part of road work in the factory area, which limits speed of vehicles and restricts unwarranted trespassing within the plant. Thus, service used in relation to manufacturing activity.	- Hindustan Zinc Ltd. v. CCE&ST, 2016 (9) TMI 942-CESTAT, New Delhi.
Electrification work at Jarofix yard site & canteen building in CISF colony	52,092/-	Providing canteen facility for employees and maintenance thereof, is a statutory requirement under the Factories Act, 1948, in compliance of which attracts penal action. Further, Jarofix yard site is a statutory compliance under the Environment law. Thus, services of electrification work are in relation to renovation and maintenance and further in relation to manufacturing activity.	- Hindustan Zinc Ltd. v. CCE&ST, 2016 (9) TMI 942-CESTAT, New Delhi. - Hindustan Zinc Ltd. v. CCE, 2017 (7) TMI 387-CESTAT, New Delhi. - Ultratech Cement Ltd v. CCE&ST, 2018 (3) TMI 1371 – CESTAT, New Delhi.
Installation of deep irrigation system	1,43,114/-	Services used in relation to garden maintenance which is requirement under State Pollution Control and further improves the aesthetics and overall atmosphere.	- Rane TRW Steering System Ltd. v. CCE - 2018 (2) TMI 1745-Madras High Court. - Orient ball Ltd. v. CCE, 2017 (1) TMI 840 – CESTAT Allahabad - Gateway Terminal (I) Pvt. ltd. v. CCE -2015 (39) STR 1027 (Tri. Mumbai)
Drain repairing	48,029/-		
Tree washing and washing of common area road	88,752/-		
Watering of plant	1,803/-		
Levelling and dressing of plantation	15,012/-		
Monsoon shed for storage of chemicals and WIP during rainy season	26,314/-	Services received for storage of inputs and semi-finished goods during rainy season. Thus, services used in relation to manufacturing activity.	- Hind Rectifiers Ltd. vs. CCE, 2-17 (9) TMI 611 – CESTAT Mumbai
AMC for plant & machinery, security services at main gate, laying cable work at CISF colony, etc.	97,225/-	Services used for repair & maintenance and security. Thus, used in relation to manufacturing activity.	- Ultratech Cement Ltd. v. CCE&ST -2018 (3) TMI 1371 – CESTAT, New Delhi. - Hindustan Zinc Ltd. v. CCE&ST -2016 (9) TMI 942 –CESTAT, New Delhi.

2. Heard the parties.

3. Learned Counsel for the appellant submits that admittedly all these services have been received and utilised inside the factory premises, relating to the production, directly or indirectly. The appellant is involved in mining of zinc and further beneficiation for getting the metal zinc which is a taxable output. In the process,

certain hazardous waste is generated, which has to be properly stored and has to be disposed of as per the norms laid down by the State Pollution Control Board to minimise air & water and land pollution. Jarofix yard site is essential in the manufacturing of zinc, accordingly all these aforementioned services are admittedly used for managing the jarofix yard site, and also for maintaining greenery as per direction of the State Pollution Control Board. Further, Monsoon shed is for storage of chemical and work in progress, during the rainy season which is essential activity for production. Similarly, AMC for plant and machinery, as well as security services and services for laying cable work at CISF Colony, is also related to security for the plant. Learned Counsel relies on several rulings wherein similar issue has been decided in facour of assessee as given in the table above.

4. Learned Authorised Representative for the Revenue relies on the impugned order.

5. Having considered the rival contentions, I hold that the appellant is entitled to cenvat credit on all the items of input services in dispute, as the same has been received and utilised in the factory of production allowable under Rule 2(l) of Cenvat Credit Rules, 2004. Thus, the impugned order is set aside and appeal is allowed. Appellant is entitled to consequential benefit, in accordance with law.

(Dictated and pronounced in open Court)

(Anil Choudhary)
Member (Judicial)

Pant