

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. E/394 /2009 – SM[BR]

Date 15/12/2010

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S TANGENCE SOLUTIONS (INDIA) PVT. LTD.
B-57, SECTOR-63, NOIDA. DISTT. GAUTAMBUDH NAGAR.[U.P.]

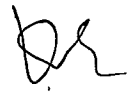
M/S TANGENCE SOLUTIONS (INDIA) PVT. LTD.

C.C.E. NOIDA

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 1419 / 2010-SM[BR] dated 3.12.2010
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C.E. NOIDA

C-56/42, SECTOR-62, NOIDA-201307

2. Adv. / Consult

MR.A.K.BATRA & ASSOCIATES

A-36, FIRST FLOOR, RAJOURI GARDEN, RING ROAD, N DELHI.

3 S.D.R

~~4 J.C.D.R.~~

5 Bar association, CESTAT, New Delhi

6 Director Publications, Customs, Excise. I.P. Estate, New Delhi

7 M/s Centax Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3

8 Company Law Institute of India Pvt Ltd., No.2 (Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17

9 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017

10 Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005

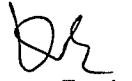
11 Easy Service Tax Online Dot Com Pvt.Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

12 LAWCRUX Advisors Pvt Ltd, LAW House, 1-8, Sector - 10, Faridabad 121003 (Harvana)

13 TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor, Vasant Arcade, Nelson Mandela Road, Vasant Kunj, New Delhi - 110070

14 Office Copy

15 Guard file


Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
Single Member Bench

Excise Appeal No.394 of 2009-SM

(Arising out of Order-in-Appeal No.134-CE/Noida/2008 dated
19.11.2008 passed by the CCE (A), Meerut-II, Noida)

Date of Hearing/Decision: 03.12.2010

For approval and signature:

Hon'ble Mr.M.Veeraiyan Member (Technical)

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	Yes
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3	Whether Their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

M/s.Tangence Solutions (India) Pvt.Ltd.

Appellant

Vs.

CCE, Noida

Respondent

Present for the Appellant : Shri A.K.Batra, Advocate

Present for the Respondent: Shri K.P.Singh, SDR

Coram:

Hon'ble Mr.M.Veeraiyan, Member (Technical)

final ORDER No. 1419 / 2010 SM (Br)

PER: M.VEERAIYAN

This is an appeal against order of the Commissioner (Appeals) in so far as the same related to upholding rejection of rebate of Rs.38,834/- on services exported holding that the services of group insurance, health policy, medical policy and services relating to house keeping could not be treated as input services.

2. Heard both sides.

3. Learned CA submits that term 'input service' is very wide and it includes all services connected to the business activities of the service provider. The service of house keeping has been utilized as input service and the credit taken has been under management, maintenance and repairs services provided the service provider. As regards group insurance, they were provided as business expenditure with view to employ and retain talented man power. He relies on the decision of the Tribunal in the case of Sundaram Fasteners Limited vs. CCE, Chennai reported in 2010-TIOL-1342-CESTAT-MAD wherein after noting the broad definition of input service, the input service credit on group insurance, health policy of the company were allowed after taking into account that the costs of these services formed part of CAS-IV in the costing of production. He also relies on the decision of the Tribunal in the case of CCE, Raipur vs. Raipur Rotocast Ltd reported in 2010 (16) STR 466 wherein it has been held that insurance of the capital goods whether in the factory or in transit and similarly the group insurance of the workers and staff is very much part of the business activity and every manufacturer or service provider has to use these services for his business. With these observations, the credit on services relating to insurance of workers was allowed.

4. Learned CA also submits that in the absence of specific formulation for the service industries, the concept of CAS-IV should be taken into account and the expenses on services which go to the cost of the service exported by the appellants should be held as input service and credit extended.

5. Learned SDR strongly supports the order of the Commissioner (Appeals). Drawing my attention to the finding of the Commissioner (Appeals), he submits that the credit relating to house keeping

service, has been disallowed as the appellants have not adduced any evidence to show that man power was actually engaged in the activity relating to the business. Regarding group insurance/health policy/personal accident policy, he submits that these are not mandatory and are only part of the welfare measures undertaken at the option of the individual of company and the same cannot be treated as input service for extending credit. CAS-IV is in respect of valuation of captively consumed products in the manufacturing sector and drawing analogy to the service sector is not warranted.

6. I have carefully considered the submissions made from both sides. The denial of refund of Rs.18,917/- relating to the house keeping service was on the ground that such service did not fall within the definition of input service under Rule 2(1) of Cenvat Credit Rules, 2004 as held by the original authority. This view cannot be upheld. Though, there is no separate category of house keeping, the service provider has reportedly provided the service under the category of management, maintenance and repairs services. It has not been disputed that the same has been ~~to have~~ used by the appellants for providing service which was exported. Therefore, denial of refund to the tune of Rs.18,917/- cannot be upheld. The Commissioner's (Appeals) finding that there was no evidence that the man power was actually engaged in the activity relating to business cannot be held to be correct as house keeping is clearly necessary before rendering any service by the appellants.

7. As regards, the denial of refund relating to the group insurance/health policy is concerned, it is not disputed that there is no mandatory requirement to provide such services to the employees. No doubt, whatever expenses incurred for whatever benefit extended to the employees will also form part of the cost of

output service. Merely because the cost of certain service form part of the output service, the same cannot be treated as input service eligible for credit.

8. In the facts and circumstances off the case, the services of group insurance provided is clearly in the nature of welfare measures and cannot be treated to be integrally connected to the service provided by the appellants. Therefore, the order of the Commissioner (Appeals) in upholding the rejection of refund in respect of these services does not call for interference.

9. The appeal is partly allowed as above.

(Dictated and Pronounced in the open court)

(M.VEERAIYAN)
MEMBER (TECHNICAL)

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