IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. I

DATE OF HEARING : 29/12/2016.
DATE OF DECISION : 13/01/2017.

Excise Appeal No. 2513 of 2011 with Misc. Application No. 52021 of 2015

[Arising out of the Order-in-Appeal No. IND/CEX/000/APP/369/2011 dated 28/09/2011 passed by The Commissioner (Appeals), Customs, Central Excise & Service Tax, Indore.]

M/s Crompton Greaves Limited Appellant

Versus

CCE, Indore Respondent

Appearance

Shri Randhir Singh, Advocate – for the appellant.

Shri G.R. Singh, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Shri Justice Dr. Satish Chandra, President**
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 50344/2017 Dated : 13/01/2017

Per. B. Ravichandran :-

The appellant is aggrieved by the order dated 28/09/2011 of Commissioner (Appeals) – I, Indore. The appellants are engaged in the manufacture of transformers and parts thereof, liable to Central Excise duty. They were also availing credit of duty paid on inputs, capital goods and service tax on input services, in terms of Cenvat Credit Rules, 2004. After scrutiny of records maintained by the appellant, the Revenue entertained a view that the appellants are not eligible to avail Cenvat credit to the extent of Rs. 10,75,818/- availed on various services received by them. These services were falling under various general categories – gardening services, air travel agency service, canteen service, maintenance of office equipment, operation of staff bus, club membership, credit/data card payment services, cleaning services, car repair charges, telephone and courier service etc. The Revenue held that these were not covered under the category of "input service" in terms of Rule 2 (l) of Cenvat Credit Rules, 2004. The original authority disallowed the credit and imposed equal amount of penalty under Rule 15 (3) of Cenvat Credit Rules, 2004 readwith Section 11AC of Central Excise Act, 1944. On appeal, the Commissioner (Appeals) upheld the said order.

2. The learned Counsel for the appellant submitted that the lower authority did not examine the scope of each one of the service with reference to their manufacturing activity and the denial was made on a summary basis with only referring to statutory definition. No clear legal reason was recorded for denying credit under each head of service. Further, he submitted a write up listing out the nature of input service, purpose or justification of such input service in connection with their manufacturing activity and various decided case laws which upheld the eligibility of credit on such services.

3. The learned AR reiterated the findings in the impugned order.

4. We have heard both the sides and perused the appeal records. We note that the impugned order though listed about 9 services and recorded the reason for denial of each one of the service, the general reason, adopted appears to be that these services are not input services as they are not connected to the appellants manufacturing activity. We have examined the detailed write up submitted by the appellant explaining the scope of input service and its relationship to their manufacturing activity. The eligibility of input services are examined individually, in brief, as below :-

(a) Air travel service : This is with reference to travel of employees within or outside country in connection with the appellants business of manufacture and sale of transformers ;

(b) Annual Maintenance Charges relating to equipment installed in the office of the appellant are connected to the manufacturing facility. Maintenance and repair of the said office equipment is directly connected to managing the activities of manufacturing and marketing the excisable products ;

(c) Credit card payment is with reference to cards provided to the employees for the purpose of meeting immediate expense when the employee is spending money with reference to their work with the appellant ;

(d) Car repair and maintenance : The cars are used by the senior officials of the appellant to perform their duty. The appellant paid the repair and maintenance charges alongwith service tax for such services which are used in connection with official work of the officers ;

(e) House keeping and cleaning charges are with reference to up-keep of the office and related factory premises. These are essential part of maintaining the factory and office, directly connected to the functioning of the appellant as a manufacturer of excisable goods ;

(f) Club membership charges and internet data charges; transport by bus for the staff, are services which are used by the employees in connection with arranging meeting with business associates, corresponding and communicating through electronic means and arriving to the work premises in time. The factory is situated outside the main city and the transport ensures the timely arrival of officers and staff to attend the activities of the appellant;

(g) Canteen services : Canteen services were provided as a part of the responsibility under Factories Act. The period covered is prior to February 2010;

(h) Escort service is for ensuring prompt and safe delivery of transformers to the intended destination. Escort personnel were provided for this purpose and charges for them alongwith service tax is paid by the appellant;

(i) Garden maintenance service is in compliance of their ISO 14000 Standard and also pollution control norms of the Government of India;

(j) The first aid services is to meet any contingency in the factory premises. In order to attend to any accidental injury or sudden sickness of the employees in their premises such services are availed; and

(k) Telephone and courier services are directly related to their business activity.

5. On overall perusal the various categories of service and the relationship with the activity of the appellant as a manufacturer of excisable goods we find that the credit on these services cannot be denied on restrictive interpretation as adopted by the lower authorities. As already noted the appellants gave a long list of decided case laws justifying that the legal position in respect of these various input services which has been consistently and favourably settled in favour of the appellant. We make reference to a few of them just to highlight that these matters have been subjected to interpretation in many cases and eligibility of credit has been upheld by the Tribunal :-

(i) **CST, Mumbai – II vs. WNS Global Services** reported in **2016 (44) S.T.R. 454 (Tri. – Mumbai)** ;

(ii) **CCE & CUS, Guntur vs. CCL Products (India) Ltd.** reported in **2009 (16) S.T.R. 305 (Tri. – Bang.)** ;

(iii) **Delta Energy Systems Ltd. vs. CCE, Delhi – III** reported in **2013 (31) S.T.R. 684 (Tri. – Del.)** ;

(iv) **CCE & ST, Mangalore vs. Mangalore Refinery & Petrochemicals Ltd.** reported in **2016 (42) S.T.R. 6 (Kar.)**;

(v) **CCE & ST, LTU, Chennai vs. Rane TRW Steering Systems Ltd.** reported in **2015 (39) S.T.R. 13 (Mad.)**;

(vi) **Mangalam Cement Ltd. vs. CCE & ST, Jaipur – I** reported in **2015 (38) S.T.R. 635 (Tri. – Del.)**;

(vii) **Resil Chemicals Pvt. Ltd. vs. CCE, Bangalore – I** reported in **2014 (36) S.T.R. 1260 (Kar.)**;

(viii) **Utopia India Pvt. Ltd. vs. CST, Bangalore** reported in **2011 (23) S.T.R. 25 (Tri. – Bang.)**;

(ix) **CCE, Bangalore – II vs. Millipore India Pvt. Ltd.** reported in **2012 (26) S.T.R. 514 (Kar.)**;

(x) **CCE, Bangalore – III vs. Stanzen Toyotetsu India (P) Ltd.** reported in **2011 (23) S.T.R. 444 (Kar.)** and

(xi) **Jaypee Sidhi Cement Plant vs. CCE, Bhopal** reported in **2015 (37) S.T.R. 379 (Tri. – Del.)**.

6. Considering the above position and various decided cases, we are of the opinion that the denial of credit on these services by the lower authorities is not legally justifiable. Accordingly, we set aside the impugned order and allow the appeal. The miscellaneous application filed by the appellant is also disposed of.

(Order pronounced in open court on 13/01/2017.)

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

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