CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

COURT-II

Date of hearing/decision: 02.06.2017

Appeal No.E/1372/2011-SM
[Arising out of the Order-in-Appeal No.33/2011(CE) dated 24.03.2011, passed by the Commissioner, Central Excise Commissionerate-I, Jaipur.)

Mangalam Cement ... Appellant

Vs.

CCE, Jaipur -I ... Respondent

Appearance:

Present Ms. Rinki Arora, Advocate for the appellant
Present Ms. Kannu Verma Kumar, DR for the respondent

Coram: Hon'ble Mr.Ashok K. Arya, (Technical Member)

FINAL ORDER No. 53685/2017

Per Ashok K. Arya :

1. *M/S Manglam Cement Ltd*. is in appeal against Order in Appeal No. 33/2011 dated 24.03.2011 whereunder Cenvat credit on various input services namely insurance services, outdoor catering services, rent a cab service and outward transportation service, have been denied to the appellant.
2. After having carefully considered the facts of the case and submissions of both the sides given by the Ld.

Counsels, Ms. Rinki Arora for the appellant and Ms. Kanu Verma Kumar for the Revenue, it appears that the matter is covered by the Tribunal's decision in the appellant's own case of *Mangalam Cement Ltd V/s CCE*, *Jaipur-I,* where final order No. 54085-54088/2016-SM [BR] in appeal number E/2351-23543/2011-ST (SM) was issued. The Tribunal in the said decision observed as under -:

> 6. For the present matter the definition of input service given in Rule 2(l) of Cenvat Credit Rules, 2002 CCR) is referred below:
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> *"2(l) "Input service" means any service-*
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> *(i) used by a provider of taxable service for providing an output service, or,*
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> *(ii) used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and (clearance of final products upto the place of removal),*
>
> *and includes services used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage o upto the place of removal, procurement of inputs, activities relating to business, such as accounting, auditing, financing recruitment and quality control,. coaching and training, computer networking, credit relating, share registry, and security, inward transportation of inputs or capital goods and outward transportation upto the place of removal."*
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> 6.1 In the light of the above definition and considering the Karnataka High Court decision in the case of *Madras Cement Ltd. Vs. Additional Commissioner of Central Excise, Bangalore* – 2015 (40) STR 645 (Kar.), Hon'ble High Court of Bangalore decision in the case of *CCE, Bangalore Vs. Stanzen Toyotetsu India (P) Ltd.* – 2011 (23) STR 444 (Kar.) and Hon'ble Bombay High Court decision in the case of *CCE, Nagpur Vs. Ultratech Cement Ltd.* – 2010 (20) STR 577 (Bom.) all the services in question mentioned above they be eligible for Cenvat credit under Rule 3(1) of Cenvat Credit Rules, 2004.

3. Further, for the present facts Hon'ble Bombay High Court's decision in case of *CCE Nagpur Vs Ultratech Cement Ltd.* 2010(20) S.T.R. 557 (Bom.) is also applicable Hon'ble Bombay High Court in this decision has observed as under:-

> **34.** Therefore, the definition of input service read as a whole makes it clear that the said definition not only covers services, which are used directly or indirectly in or in relation to the manufacture of final product, but also includes other services, which have direct nexus or which are integrally connected with the business of manufacturing the final product. In the facts of the present case, use of the outdoor catering services is integrally connected with the business of manufacturing cement and therefore, credit of service tax paid on outdoor catering services would be allowable.
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> **35.** The argument of the Revenue, that the expression "such as" in the definition of input service is exhaustive and is restricted to the services named therein, is also devoid of any merit, because, the substantive part of the definition of 'input service' as well as the inclusive part of the definition of 'input service' purport to cover not only services used prior to the manufacture of final products, subsequent to the manufacture of final products but also services relating to the business such as accounting, auditing..... etc. Thus the definition of input service seeks to cover every conceivable service used in the business of manufacturing the final products. Moreover, the categories of services enumerated after the expression 'such as' in the definition of 'input service' do not relate to any particular class or category of services, but refer to variety of services used in the business of manufacturing the final products. There is nothing in the definition of 'input service' to suggest that the Legislature intended to define that expression restrictively. Therefore, in the absence of any intention of the Legislature to restrict the definition of 'input service' to any particular class or category of services used in the business, it would be reasonable to construe that the expression 'such as' in the inclusive part of the definition of input service is only illustrative and not exhaustive. Accordingly, we hold that all services used in relation to the business of manufacturing the final product are covered under the definition of 'input service' and in the present case, the outdoor catering services being integrally connected with the business of the manufacture of cement, credit of service tax paid out on catering services has been rightly allowed by the Tribunal.

4. In the light of above discussions and applying the ratio of Hon'ble Bombay High Court's above decision the appellant is entitled to Cenvat credit on subject input services. Consequently, the impugned order is set aside and the appeal allowed with consequential relief, if any, to the appellant.

[Order dictated and Pronounced in the open court]

(Ashok K. Arya)

Member (Technical)

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