CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 51967 of 2014

(Arising out of Order-in-Original No. 02/COMMR/CEX/IND/2014 dated 07.01.2014 passed by the Commissioner of Customs, Central Excise & Service Tax, Indore)

DATE OF HEARING : 05.07.2017
DATE OF DECISION : 05.07.2017

M/s Vikram Cement …. **Appellants**
(Rep by Sh. Hemant Bajaj, Adv.)

VERSUS

CCE, Indore …. **Respondent**
(Rep. by Sh. H.C. Saini, DR)

CORAM : **HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT**
HON'BLE MR. V. PADMANABHAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 55025/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

The present appeal is filed by the assessee-Appellants against the Order-in-Original No. 02/COMMR/CEX/IND/2014 dated 07.01.2014 passed by the Commissioner of Customs, Central Excise & Service Tax, Indore. The period in dispute is October, 2008 to March, 2009.

2. The brief facts of the case are that, the assessee-Appellants are, a unit of M/s Ultratech Cement Ltd., engaged in the manufacture of cement and clinkers falling under Chapter Heading 2523 of the First Schedule to the Central Excise Tariff Act, 1985. They were availing credit on

inputs, capital goods and input services used in or in relation to manufacture of final products. But the lower authority has denied the benefit on the input services. Being aggrieved, the assessee-Appellants have filed the present appeal.

3. With this background, we have heard Shri Hemant Bajaj, learned counsel for the assessee-Appellants and Shri H.C. Saini, learned DR for the Revenue.

4. From the record, it appears that an identical issue has come up before this Tribunal in the assessee-Appellants own case wherein relief was granted.

S.No.	Description	Relevant case laws
1	Credit taken on invoices issued by Input service distributor (**ISD**)	• UltraTech Cement Ltd. v. CCE, Indore, FO No. A/54017/2016 dt. 07.10.2016 • Ultratech Cement Ltd. v. CCE, Indore, 2016-TIOL-2935-CESTAT-DEL • CCE, Indore v. Vikram Cement, 2016-TIOL-2206-CESTAT-DEL • Ultratech Cement Ltd. v. CCE, Indore, 2016-TIOL-373-CESTAT-DEL **<u>Cargo Handling Service</u>** ▪ John Deere India Pvt. Ltd. v. CCE, Pune, 2016 (41) STR 990 (Tri.-Mumbai) ▪ Central Excise v. Inductotherm India P. Ltd., 2016 (36) STR 994 (Guj.) ▪ CST, Bangalore v. Jubilant Biosys Ltd., 2016 (42) STR 729 (Tri.-Bang.) **<u>C&F Services</u>** ▪ Cadila Healthcare v. CCE, Ahmedabad - 2010 (17) STR 134 (Tri.-Ahmd.) (Affirmed by the Hon'ble Gujarat High Court in CCE, Ahmedabad-II v. Cadila Healthcare - 2013 (30) S.T.R. 3 (Guj.)

		<u>Advertisement services</u> ▪ CCE v. HCL Technologies Ltd. – 2016 (42) STR 48 (Tri.-Del.) **<u>Business Auxiliary Services</u>** ▪ CST, Bangalore v. Jubilant Biosys Ltd., 2016 (42) STR 729 (Tri.-Bang.) ▪ Castrol India Ltd. v. CCE, Vapi – 2013 (291) ELT 469 ▪ Semco Electric v. CCE, Pune-I - 2012 (25) S.T.R. 73 (Tri. – Mumbai) **<u>Management, Maintenance or Repairs of machinery services</u>** ▪ Cadila Healthcare v. CCE, Ahmedabad - 2010 (17) STR 134 (Tri.-Ahmd.) (Affirmed by the Hon'ble Gujarat High Court in CCE, Ahmedabad-II v. Cadila Healthcare - 2013 (30) S.T.R. 3 (Guj.)) ▪ Nirma Ltd. V. CCE 2015 (39) STR 145 (Tri.-Ahmd.) **<u>Air Travel Agent Services</u>** ▪ John Deere India Pvt. Ltd. v. CCE, Pune, 2016 (41) STR 990 (Tri.-Mumbai) ▪ CCE v. Mindarika Pvt. Ltd. 2015 (39) STR 309 (Tri.-Del.) **<u>Manpower Recruitment & Supply Agency Services</u>** ▪ CST, Bangalore v. Jubilant Biosys Ltd., 2016 (42) STR 729 (Tri.-Bang.) **<u>Courier Services</u>** ▪ CCE, Guntur v. CCL Products – 2012 (277) ELT 177 (Tri.-Bang.) ▪ Indian Oil Corp. Ltd. v. CCE, Mumbai-II - 2016 (41) S.T.R. 515 (Tri. - Mumbai) **<u>Event Management Services</u>** ▪ John Deere India Pvt. Ltd. v. CCE, Pune, 2016 (41) STR 990 (Tri.-Mumbai) ▪ Castrol India Ltd. v. CCE, Vapi – 2013 (291) ELT 469 **<u>Testing Service</u>** ▪ Cadila Healthcare v. CCE, Ahmedabad - 2010 (17) STR 134 (Tri.-Ahmd.)

		(Affirmed by the Hon'ble Gujarat High Court in CCE, Ahmedabad-II v. Cadila Healthcare - 2013 (30) S.T.R. 3 (Guj.)) **Rent-a-cab service** ▪ Stanzen Toyotetsu v. CCE, Bangalore-III - 2009 (14) S.T.R. 316 (Tri. - Bang.) (Affirmed by the Hon'ble Karnataka High Court at 2011 (23) STR 444 (Kar.)**Catering Charges** ▪ CCE v. Ultratech Cement 2010 (20) STR 577 (Bom.) ▪ Stanzen Toyotetsu v. CCE, Bangalore-III - 2009 (14) S.T.R. 316 (Tri. - Bang.) (Affirmed by the Hon'ble Karnataka High Court at 2011 (23) STR 444 (Kar.) **Input services availed outside the factory** ▪ Endurance Technologies Pvt Ltd v. CCE, Aurangabad, 2011-TIOL-1045-CESTAT-MUM ▪ CCE&C, Aurangabad v. Endurance Technology Pvt. Ltd. - 2015-TIOL-1371-HC-MUM-ST ▪ Deepak Fertilizers & Petrochemicals Corp. v. CCE, Belapur – 2013 (32) STR 532 (Bom.)
2	Insurance services	▪ Hindustan Zinc Ltd v. CCE, 2015(37)STR 608 (Tri.-Del.) ▪ CCE, Indore v. Vikram Cement, 2016-TIOL-2206-CESTAT-DEL ▪ Ultratech Cement v. CCE, Indore – 2016-TIOL-373-CESTAT-DEL ▪ Oudh Sugar Mills v. CCE, Lucknow – 2012 (282) ELT 541
3	Input service for Fly Ash Handling	▪ Ultratech Cement Ltd. v. CCE, 2014 (34) S.T.R. 426 (Tri. - Del.) ▪ Birla Corporation v. CCE, 2014 (34) S.T.R. 589 (Tri. - Del.) ▪ CCE, Indore v. Vikram Cement, 2009-TIOL-1757-CESTAT-DEL ▪ Ultratech Cement v. CCE, Indore – 2016-TIOL-373-CESTAT-DEL ▪ Brahmani River Pellets v. CCE, Bhubaneshwar-I – 2015 (40) STR 471 (Tri.-Kol.)

4	Mobile Phone Service	▪ CCE v. Excel Crop Care Ltd., 2008 (12) S.T.R. 436 (Guj.) ▪ Muscat Polymers Pvt. Ltd. v. CCE, 2012 (26) S.T.R. 122 (Tri. - Ahmd.) ▪ CCE v. Ultratech Cement, 2010-TIOL-686-HC-MUM-ST ▪ CCE (LTU), Chennai v. Brakes India Ltd. – 2009 (13) STR 684 (Tri.-Chennai)
5	Service provided at Municipal Solid Waste (**MSW**), Jaipur	▪ Ultratech Cement Ltd. v. CCE, 2014 (34) S.T.R. 426 (Tri. - Del.) ▪ Birla Corporation v. CCE, 2014 (34) S.T.R. 589 (Tri. - Del.) ▪ CCE, Indore v. Vikram Cement, 2009-TIOL-1757-CESTAT-DEL ▪ Ultratech Cement v. CCE, Indore – 2016-TIOL-373-CESTAT-DEL ▪ Brahmani River Pellets v. CCE, Bhubaneshwar-I – 2015 (40) STR 471 (Tri.-Kol.) ▪

5. By following our earlier orders (supra), we find no reason to sustain the impugned order and the same is hereby set aside.

6. In the result, the appeal filed by the assessee-Appellants is allowed.

(Dictated & pronounced in the open court)

(V. PADMANABHAN)
MEMBER (TECHNICAL)

(JUSTICE (Dr.) SATISH CHANDRA)
PRESIDENT

Golay