CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-IV

Date of hearing: 23.08.2017

Appeal No. ST/52636/2016-ST[SM]

[Arising out of the Order-in-Appeal No. 179-(AK)ST/JPR/2016 dated 06.06.2016, passed by the Commissioner of Central Excise, Jaipur]

M/s. Professional Education Services … Appellant

Vs.

C.C.E. Jaipur ... Respondent

Appearance:
Present Shri Ashutosh Chaudhary, Advocate for the appellant
Present Shri G.R. Singh, DR for the respondent

Coram: Hon'ble Mr. Ashok Jindal, Judicial Member

FINAL ORDER No. 56843/2017

Per Ashok Jindal:

The appellant is in appeal against the impugned order wherein Cenvat Credit availed by the appellant for advertisement and courier services has been denied to them.

2. The brief facts of the case are that the appellant is a commercial coaching and training centre and having a franchise of Time. On royalty paid by the appellant, the appellant is paying service tax thereon as franchise services. As M/s. Time is making advertisement for bringing students to the coaching centre of the appellant, M/s. Time is paying

service tax on coaching services and on courier services which have been used by appellants. M/s. Time has been issuing invoices to the appellant for reimbursement of proportionate amount of expenses incurred on behalf of the appellant. On the said amount of service tax, the appellant is availing Cenvat Credit. By way of impugned proceedings, the Cenvat Credit sought to be denied to the appellant on services availed for advertisement and courier services. Consequently, show cause notice was issued and the matter was adjudicated. The Cenvat Credit was denied to the appellant. Aggrieved from the said order, the appellant is before me.

3. Ld. Counsel for the appellant submits that as advertisement and courier expenses has been incurred by the franchiser for appellant only, therefore, the appellant has reimbursed expenses on the account of advertisement and courier services to the franchiser on proper document. Therefore, in terms of rule 3 of Cenvat Credit rules 2004, the appellant is entitled to avail cenvat credit thereon.

4. The arguments advanced by the ld. Consultant were opposed by the Ld. AR who submits that as appellant has not received any services of advertisement and courier, therefore, they are not entitled to avail Cenvat Credit.

5. Heard the parties and considered the submissions.

6. The short issue involved from the facts of the case are that whether the advertisement and courier services have been received by the appellant or not. If yes, whether the

appellant is entitled to avail Cenvat Credit or not. The main allegation of the revenue is that these services have not been received by the appellant directly in their premises. In fact, advertisement service is to be done in public at large for bringing students to the appellant's institute. Admittedly by the advertisement done by the franchiser, the appellant got the students. Therefore, the advertisement service has been availed by the appellant although the advertisement has been made by the franchiser. In these circumstances, the expenses reimbursed by the appellant on account of advertisement agency, the appellant has correctly availed the Cenvat Credit.

5. With regard to disallowance of the Cenvat Credit on courier services, the case of the appellant is that the said services were utilized for communication with the franchiser and students and also for procuring study material from the franchiser. In these circumstances, it is held that courier services has been availed by the appellant only. Therefore, expenses reimbursed by the appellant, the appellant is entitled for Cenvat credit on courier services. Same view has been taken by the ld. Commissioner (A) vide order no. 73/SC/CT/2008/5879 dated 19.05.2014. Therefore, I hold that the appellant is entitled to avail Cenvat Credit on courier services also.

6. As it is held that on the disputed services, the appellant is entitled to avail Cenvat Credits as these services has been availed by the appellant, therefore, both the issues have been

answered in favour of the appellant. Accordingly, I do not find any merit in the impugned order. Same is set aside. Consequently, the appeal is allowed.

[Operative part of the order Pronounced in the open court]

(Ashok Jindal)
Judicial Member

Bhanu