IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT –IV

Service Tax Appeal No.ST/53150/2016 [SM]

[Arising out of Order-in-88/ST/DLH/2016-17 dated 22.09.2016 passed by the Commissioner (Appeals-I), Customs & Central Excise, New Delhi]

M/s.Haldor Topsoe I. P. Ltd. ...Appellant

Vs.

C.C.E., Delhi-I ... Respondent

Present for the Appellant : Ms.Yogesh Jain, Consultant
Present for the Respondent: Ms.Kanu Verma, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

Date of Hearing/Decision: 14/09/2017

FINAL ORDER NO. 57093/2017

PER: S.K. MOHANTY

Denial of refund claim in respect of the taxable services under Rule 5 of Cenvat Credit Rules, 2004 is the subject matter of present dispute. The authorities below have denied refund of Cenvat Credit to the appellant on the following services:-

S.No.	Nature of services	Category of service	Amount (In Rs.)	Reason for rejection
1	Fee paid to Chartered Accountant firm	Chartered Accountant Services 65(105)(s)	4,19,128	Not used for output service
2	Fee for mapping of supplier & consumer of Sulphuric Acid	Management Consultant 65(105)(r)	51,912	Not used for output service
3	Fee paid to STPI	Other taxable	43,260	Not used for

	for registration	services – residual category		output service
4	Commercial general liability insurance	General Insurance business service 5(105)(d)	30,912	Does not qualify as input service
5	Fee for arranging lease of office space	Real Estate Agent Service 65(105)(v)	1,64,165	Address not correct on invoice
6	Cleaning of office	Cleaning services 65(105)(zzzd)	22,648	Address not correct on invoice
7	Business promotion	Business auxiliary services 65(105)(zzb)	13,732	Not used for output service -
	Total		**7,45,757**	

2. Heard both sides and perused the case records.

3. The appellant submits that it is not contesting the refund claim of Rs.13,732/- in respect of Business Auxiliary Service, since such service has not been used for output service. Accordingly, it is held that the appellant is not entitled for refund and to such extent the impugned order passed by the Commissioner (Appeals) is proper and justified and cannot be interfered with at this juncture.

4. However, in respect of taxable services, namely, Chartered Accountants service, management Consultant, other taxable services as per the above table, the same were availed / utilised by the appellant for export of its output service. The term 'input service' has been defined in Rule 2 (l) of the Cenvat Credit Rules, 2004. The said rule mandates that any service used by a provider of output service, for providing an

output service, should be considered as input service for the purpose of availment of Cenvat Credit. On perusal of the definition and the nature of the disputed services, it reveals that none of the services mentioned therein are falling under the excluded category, as per such definition. Thus, usage of the disputed service for ultimate exportation of taxable service, having been not disputed by the Department, denial of Cenvat benefit, in my opinion, is not proper and justified. As regards incorrect mention of address, I find that the address mentioned in the invoices is the same as mentioned in the service tax registration certificate. Thus, rejection of refund on such ground is not sustainable.

5. In view of above, I do not find any merits in the impugned order, so far as it rejects the refund claim under Rule 5 of the Cenvat Credit Rules, except the Business Auxiliary Service mentioned at Sl. No.7 in the above list. Therefore, the refund application in respect of the services indicated at Sl.No.1 to 6 in the above table is allowed in favour of the appellant.

[Dictated and pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita