CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Bench - SMB
Court – I

Sl. No.	Appeal No.	Appellant	Respondent	Impugned Order
1.	ST/30422/2018	Commissioner of Central Tax, Tirupati	Sree Rayalaseema Alkalies and Allied Chemicals Ltd.,	OIA No. TTD-EXCUS-000-APP-085-17-18 dated 27.12.2017.
2.	E/30433/2018	TGV SRAAC Ltd.,	Commissioner of Central Tax, Tirupati	OIO No. TTD-EXCUS-000-COM-06-17-18 dated 08.01.2018
3.	E/30434/2018	-DO-	-DO-	OIO No. 34/2016 – (C.Ex.) (ADC) dated 06.01.2017
4.	E/30435/2018	-DO-	-DO-	OIA No. TTD-EXCUS-000-APP-086-17-18 dated 27.12.2017
5.	E/30436/2018	-DO-	-DO-	OIA No. TTD-EXCUS-000-APP-087-17-18 dated 27.12.2017
6.	E/30437/2018	-DO-	-DO-	OIA No. TTD-EXCUS-000-APP-092-17-18 dated 27.12.2017
7.	E/30438/2018	-DO-	-DO-	OIA No. TTD-EXCUS-000-APP-094-17-18 dated 27.12.2017
8.	E/30439/2018	-DO-	-DO-	OIA No. TTD-EXCUS-000-APP-095-17-18 dated 27.12.2017
9.	E/30440/2018	-DO-	-DO-	OIA No. TTD-EXCUS-000-APP-098-17-18 dated 27.12.2017
10.	E/30441/2018	-DO-	-DO-	OIA No. TTD-EXCUS-000-APP-097-17-18 dated 27.12.2017

Appearance
Shri Gururaj, Advocate for the Appellant.
Shri Dass Thavanam, Superintendent (AR) for the Respondent.

Coram:
Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)

Date of Hearing: 29/05/2018
Date of Decision: 27/07/2018

FINAL ORDER No. A/30775-30784/2018

[Order per: M.V. Ravindran]

By a common order, the following appeals are disposed of as there is a same question of law and the same set of facts:

Sl. No.	Appeal No.	Appellant	Respondent
1.	E/30433/2018	TGV SRAAC Ltd.,	Commissioner of Central Tax, Tirupati
2.	E/30434/2018	-do-	-do-
3.	E/30435/2018	-do-	-do-
4.	E/30436/2018	-do-	-do-
5.	E/30437/2018	-do-	-do-
6.	E/30438/2018	-do-	-do-
7.	E/30439/2018	-do-	-do-
8.	E/30440/2018	-do-	-do-
9.	E/30441/2018	-do-	-do-
10.	ST/30422/2018	Commissioner of Central Tax, Tirupati	Sree Rayalaseema Alkalies and Allied Chemicals Ltd.,

Revenue has also filed an appeal No. E/30422/2018 against the Order-in-Appeal No. TTD-EXCUS-000-APP-085-17-18 dated 27.12.2017.

2. The issue involved in all these appeals is regarding eligibility to avail CENVAT credit of various input services like Storage and Warehousing Services, Travel Agent service, Cargo Handling service, Technical Testing and Analysis services, Commissioning and Advertising Agency services, Consulting Engineer services and Insurance Auxiliary services as also Business Auxiliary services. Both the lower authorities have come to a conclusion, that the

CENVAT credit cannot be allowed, the service tax paid on the services for the reason that invoices/duty paying documents were not produced in the name of branch office service provider was unregistered etc.

3. Learned Counsel in respect of appeal Nos. E/30434-30441/2018 makes a common submission as to the Advertising services were used for own branded soap. It is his submission that appellant is manufacturer of soap noodle and supplied to a job worker who produces the finished goods, duty is paid and credit of duty paid on inputs is under CENVAT Credit Rules, the credit is denied, only on the ground of clearances which are affected from job worker premises are not clearances from the appellant's unit and the invoices are not in the name of the factory/office. As regards the Consulting Engineer services and Insurance Auxiliary service, it is his submission that denial is for the invoices being not in the name of the head office but in the name of branch and in respect of insurance auxiliary services, it is denied also on the ground that their issued for personal instant services. But factually, the said services are for transit and insurance in going and out, building plant machinery at the factory and the power general plant, movement of cash between head office and branches. It is his further submission, thus, as regards the denial of CENVAT credit in appeal No. 30422/2018 most of the denial of the CENVAT credit only on the grounds that appellant had not produced any documents to justified their claim. It is his

submission that they could not produce any documents, as they were lost during the flood in the year, 2009 and the premises on the appellant's office were flooded. It is his humble prayer, as they are in the process of procuring certified copies of documents they may be given a chance to do so and remand the matter back to the lower authorities.

4. Learned Departmental Representative reiterates the findings of the First Appellate Authority in all these appeals and submits that documents on which credit was availed is not addressed in the head office name but in name of branches and appellant need not be given a chance for producing the documents as the Tribunal in the earlier round of litigation remanded the matter back only on this ground.

5. Considered the submission made at length by both sides and perused the records. All these appeals raising a common question of law, as disposed of as under:

5.1 Appeal No. E/30434/2018 to 30441/2018.

6. It can be seen from the impugned orders, in all these appeals that the Advertising Agency services which were availed by the appellants, CENVAT credit is denied on the ground that the invoices are in the name of branch office and head office and there is no ISD registration, hence violation of Rules 7 of the CENVAT Credit

Rules, 2004; Consulting Engineer Services credit were also denied on the self same grounds; Insurance Auxiliary service denied is on the ground that the appellant did not produced relevant documents and the service tax paid on Insurance like Swaraj Mazda Hero Passion motor bike and could not satisfy the vehicles were used for manufacturing purposes; Business Auxiliary Service credit is denied on the ground that the invoices are in the name of branch office and head office.

7. In my considered view, the denial of CENVAT credit in the appeal No. E/30434/2018 on Advertising Services and Consulting Engineer services, in appeal No. E/30438/2018 on Advertising services and Business Auxiliary services, E/30439/2018 on Advertising Services, and E/30441/2018 on Advertising services and Business Auxiliary services are correctly allowed in as much, there is no denial that these services were received in the appellants name though the invoices are in the name of branch office and head office. Appellant had taken a consistent stand that they have no other place of manufacturing other than the place mentioned, no credit is availed at the branch office though received the services, the payment to such service providers are made from the factory premises of the appellants. Since the payments were from Centralized account, being factory, CENVAT credit should not be denied is proposition which has been decided by the Tribunal in the case of *Mahidra & Mahindra Ltd.,* [2015 (38) STR 830]. I find that, both the lower

authorities have recorded that the appellant had cited this decision of the Tribunal, but the ratio is sought to be distinguished. In my considered view the stand of lower authorities is incorrect and the ratio of the decision of the Tribunal covers the point raised in these appeals in favour of the appellant. I find that the decision of the Hon'ble High Court of Bombay in the case of *Ultratech Cement Ltd.,* also covers the various issues raised as to input services being not covered under 2(l) for the period prior to amendment of the definition of input services is also not considered by the lower authorities. In my view, the CENVAT credit sought to be denied in all these appeals herein above are eligible and needs to be allowed to the appellant. The appeals are disposed of accordingly.

8. As regards the appeal No. E/30433/2018, 30435/2018, 30436/2018, 30437/2018 and 30440/2018, the service tax credit is denied mainly on the ground that appellant did not produce relevant documents. In my view, if appellant is able to produce some documents to show the service tax liability was discharged by the service providers, and then the lower authorities should examined the same. Without expressing the any opinion on the merits of the case, in all these appeals, impugned orders are set aside and the issue is regarding the eligibility to CENVAT credit should remand the matter back and reconsider the issue after following the principles of natural justice.

9. As regards the appeal filed by the Revenue in appeal No. E/30422/2018, it is noticed that the First Appellate Authority has correctly upheld the claim of the assessee as eligible to avail CENVAT credit and has appreciated the facts correctly in as much he has allowed the CENVAT credit in respect of the services rendered by Travel Agency services, Business Auxiliary services, Chartered Accountant services, Maintenance & Repair services and Technical Testing services. In my view, the order of the First Appellate Authority cannot be faulted as followed the law laid down by the Higher Judicial Forums. In view of the above, the appeal filed by the Revenue is rejected.

10. All these appeals are disposed of as indicated herein above.

(Order pronounced on 27/07/2018 in open court)

M.V. RAVINDRAN
MEMBER (JUDICIAL)

Lakshmi….