CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Service Tax Appeal No. 30452 of 2016
(Arising out of **Order-in-Original** No.HYD-SVTAX-000-COM-40-15-16 dated 29.01.2016 passed by Commissioner of Service Tax, Hyderabad)

Union Bank of India .. **APPELLANT**
(Formerly known as Andhra Bank)
Dr. Pattabhi Bhavan,
5-9-11, Saifabad,
Hyderabad,
Telanagana – 500 004.

VERSUS

Commissioner of Central Tax .. **RESPONDENT**
Hyderabad – GST
Kendriya Shulk Bhavan,
L.B. Stadium Road,
Basheerbagh, Hyderabad,
Telangana – 500 004.

APPEARANCE:
Shri S. Ananthan, CA for the Appellant.
Shri V Srikant Rao, Authorised Representative for the Respondent.

CORAM: HON'BLE Mr. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)

FINAL ORDER No. A/30299/2023

Date of Hearing:07.09.2023
Date of Decision:07.09.2023

[ORDER PER: BENCH]

The issue involved in this appeal is whether the appellant – a bank, have rightly taken Cenvat Credit of the Insurance Premium paid to Deposit Insurance & Credit Guarantee Corporation (DICGC).

2. The appellant Andhra Bank (now known as Union Bank of India) having a centralized Service Tax registration no. AABCA7375CST042 mainly providing the services under the category Banking & Other Financial Services. As a part of business of banking, the appellant bank accepts deposits which are in the form of Fixed Deposit, Recurring Deposits, Savings Bank Deposits and Current Deposits. The appellant bank charges various charges as Ledger Folio Charges, Pass Book issue charges, Cheque Book issue charges, ATM Card charges, Minimum Balance charges etc. These charges are mainly relating to the deposit accounts such as Savings Bank & Current Accounts. Further, the money mobilized through various deposits is utilized by the appellant bank for providing various credit facilities.

3. The business of Banking in India is governed by the provisions of Banking Regulations Act, 1949 (BR Act). A Bank can carry on business of Banking only after obtaining a Banking license from the Reserve Bank of India. The Deposit Insurance & Credit Guarantee Corporation (DICGC) was formed by a Central Act called The Deposit Insurance & Credit Guarantee Corporation Act, 1961 (DICGC Act). The said Acts provides for various regulations relating to insurance of deposits, payment of premium etc. As per Section 11 of DICGC Act, all the commercial banks are required to be registered with the Corporation soon after they are granted license by the Reserve Bank of India for the purpose of carrying on the business of banking. Section 15 of the said Act mandates that every bank registered with DICGC shall pay a premium on the deposits. Section 15A (1) of the said Act, empowers DICGS to cancel the registration if any bank fails to pay the premium. Thus, a combined reading of Sections 13, 15 & 15A of the said Act would clearly demonstrate that for the purpose of carrying on business of banking in India, the bank should register with DICGC and pay the premium to DICGC. Further, the bank can lend money only if it accepts the deposit. The services of accepting the deposits and lending are liable to service tax. Only the consideration in the form of interest is not liable to service tax. The bank has paid service tax on various charges relating to acceptance of deposits and lending. The appellant bank therefore availed the Cenvat Credit of the Service Tax paid on the insurance premium paid to DICGC.

4. Show Cause Notice dated 27.03.2015 was issued on the appellant bank alleging that the DICGC insurance premium is not an input service and as such, the appellant bank is not entitled to avail the Cenvat Credit.

5. The appellant gave a detailed reply and appeared in person and made submissions. The Learned Commissioner did not accept the contentions of the appellant and passed the OIO bearing No. HYD-SVTAX-000-COM-40-15-16 dated 29.01.2016 confirming the following demand:

Nature of Demand	**Section of the Finance Act, 1994**	**Amount (Rs.)**
Service Tax & Education Cess	73(1) & 73(2)	19,57,51,685
Interest	75	@ applicable rate
Penalty	15(1) of Cenvat Credit Rules, 2004	1,95,75,169
Penalty	15(3) of Cenvat Credit Rules, 2004 with Section 78 of Finance Act, 1994	19,57,51,685

Aggrieved by this, the appellant is before this Tribunal.

6. Heard the parties. We find that the issue is no longer res-integra and the same have been adjudicated by the Hon'ble Kerala High Court in C.E.Appeal No. 1 of 2021 along with other appeals and vide Judgment dated 05.12.2022 the High Court relying on the ruling of Larger Bench of this Tribunal in South Indian Bank being Final Order No. 20691-30708/2020 dated 23.09.2020, have held that similarly situated assessee like banks are entitled to take Cenvat Credit on the premium paid to DICGC for the insurance services rendered by DICGC to the banks. Hon'ble High Court observed that without accepting deposits the bank cannot extend loans which is necessary to earn profit and the banks are under Statutory obligations to ensure the deposits received are issued for conducting the banking business. Further, the commercial banks face the risk of being dilicensed by the RBI if they did not insure the deposits with the DICGC (subsidiary of RBI).

7. Thus, we find that the issue is squarely covered by the ruling of the Larger Bench in South Indian Bank which have been confirmed by Hon'ble Kerala High Court. Accordingly, appeal is allowed and the impugned order is set aside. The appellant is entitled to consequential reliefs, if any in accordance with law.

(Operative portion of this order was pronounced
in open court on conclusion of hearing)

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

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