CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD

Division Bench

Court – I

Service Tax Appeal No. 30002 of 2015

(Arising out of OIO No.HYD-EXCUS-004-COM-032-15-16 dt.14.09.2015 passed by Commissioner of Central Excise, Customs & Service Tax, Hyderabad-IV)

HSBC Electronic Data Processing India Pvt Ltd ......**Appellant**
Hitech City Layout, Madhapur,
Hyderabad, Telangana – 500 081

VERSUS

Commissioner of Central Tax Hyderabad - IV ......**Respondent**
Posnett Bhawan, Tilak Road,
Ramkoti, Hyderabad – 500 001

and

Service Tax Appeal No. 22145 of 2015

(Arising out of OIO No.HYD-EXCUS-004-COM-02-15-16 dt.13.07.2015 passed by Commissioner of Central Excise, Customs & Service Tax, Hyderabad-IV)

HSBC Electronic Data Processing India Pvt Ltd ......**Appellant**
Hitech City Layout, Madhapur,
Hyderabad, Telangana – 500 081

VERSUS

Commissioner of Central Tax Hyderabad - IV ......**Respondent**
Posnett Bhawan, Tilak Road,
Ramkoti, Hyderabad – 500 001

Appearance
Shri S. Thirumalai, Advocate for the Appellant.
Shri Chittaranjan Wagh Prakash, AR for the Respondent.

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

FINAL ORDER No. A/30395-30396/2023

Date of Hearing: 20.11.2023
Date of Decision: 20.11.2023

[Order per: ANIL CHOUDHARY]

Heard the parties.

2. The issue in these Appeals is whether certain input services credit has been rightly disallowed vide Impugned Orders in adjudication passed by the Commissioner of Central Excise & Service Tax or otherwise. The period involved in these Appeals is as follows:

a) Appeal ST/30002/2015 - April 2012 to March 2014
b) Appeal ST/22145/2015 - April 2010 to March 2012

3. Vide Impugned Orders, certain input services availed by the Appellant, who is provider of output services under the head 'Information Technology services' & 'Information Technology Enables services' (IT & ITES) were disallowed under Rule 14 of CCR. The input services, inter alia, are as follows:

Appeal No. ST/22145/2015:

S.No.	**Input service category**	**Service Tax**	
		2010-11	**2011-12**
1	Advertising Agency's service	9,93,258/-	80,217/-
2	Air Travel Agent's service	3,57,731/-	7,31,900/-
3	Authorized Service station service	6,112/-	0
4	Cable service	3,078/-	0
5	Courier service	28,93,534/-	5,26,507/- + 28,96,702/-
6	Erection, Commissioning or installation service	1,28,54,691/-	56,92,927/-
7	Event management service	19,42,424/-	0
8	Insurance/ Insurance Auxiliary service	39,83,299/-	1,34,829/-
9	Storage & Warehousing service	1,62,290/-	9,06,532/-
	Total	**2,31,96,417/-**	**1,09,69,614/-**

Appeal No. ST/30002/2015:

S.No.	**Input service category**	**Service Tax**	
		2012-13	**2013-14**
1	Air Travel Agent's services	10,76,601/-	27,01,044/-
2	Banking & Financial services	0	3,79,188/-
3	Business Support services	1,86,90,348/-	2,36,31,036/-

4	Courier service	2,19,169/-	2,32,264/-
5	Custom House Agent's service	4,38,953/-	4,65,744/-
6	Insurance services	58,46,244/-	5,81,947/-
7	Management Consultant's services	2,70,93,039/-	1,87,34,261/-
8	Professional services	0	47,15,424/-
	Total	**5,33,62,354/-**	**5,14,40,908/-**

4. Learned Counsel appearing for the Appellant, assailing the Impugned Orders, submits that similar issue was also involved in the refund proceedings under Rule 5 of CCR read with Notification No.26/2012. He further urges that it has been held by Hon'ble High Courts that procedure of refund under Rule 5 of CCR and procedure for disallowance of credit under Rule 14 are similar in nature. Accordingly, there cannot be contrary views taken with respect to two different Rules of CCR.

5. Learned Counsel further points out that the Commissioner (Appeals) in a batch of Appeals of this very Appellant vide Order in Appeal No. HYD-SVTAX-RRC-APP-035 to 055-17-18 (APP-I) dated 18.09.2017 have considered the similar disallowances of Cenvat credit on the nexus theory for the period April 2010 to December 2015, wherein the Commissioner (Appeals) have considered in detail allowing Cenvat credit on certain input services like Advertising Agency service, Air Travel Agent service, Architect service, etc., and have recorded the finding that in the adjudication proceedings, such disallowances were made arbitrarily as a result of inadequate effort to determine justifiably the eligibility or otherwise of the credit of tax on the input services in dispute. Considering the nature of activity and relevancy and also considering various judicial rulings, the Commissioner (Appeals) was pleased to hold that the services under dispute are normally used by the Appellant to provide output services rendering IT & ITES and accordingly, allowed the benefit of credit to them. Learned Counsel also informs that pursuant to the Order of the Commissioner (Appeals), the refunds of unutilized Cenvat credit which were earlier disallowed in part have been now granted to them and there is no further dispute in the matter. Accordingly, he prays for allowing these Appeals.

6. Learned AR for Revenue relies on the Impugned Orders.

7. Having considered the rival contentions, we agree with the contention of the Counsel for the Appellant that proceedings under Rule 14 and Rule 5 of CCR are similar in nature. Further, taking into notice the Order of the Commissioner

(Appeals) dated 18.09.2017 (supra), we find that the issue involved in these Appeals has been already adjudicated in detail and allowed in favour of the Appellants. This Order of the Commissioner (Appeals) also includes the period of dispute in the present Appeals.

8. Accordingly, in view of our observations and findings, we allow these Appeals and set aside the Impugned Orders. The Appellant shall be entitled to consequential benefits, in accordance with law.

(Dictated and pronounced in the Open Court)

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

Veda