CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL HYDERABAD

Division Bench – Court No. – I

Excise Appeal No. 27804 of 2013

(Arising out of Order-in- Original No.VIZ-CEX-001-COM-016-13 dt.28.06.2013 passed by Commissioner of Customs, Central Excise & Service Tax, Visakhapatnam-I)

M/s Hindustan Petroleum Corporation Ltd ......**Appellant**
Visakha Refinery Finance Department,
Malkapuram, Visakhapatnam, AP – 530 011

VERSUS

Commissioner of Central Excise & Service Tax, Visakhapatnam - I ......**Respondent**
Port Area, Visakhapatnam,
Andhra Pradesh – 530 035

Appearance

Shri Ch. Sumanth, Advocate for the Appellant.
Shri B. Subhas Chandra Bose, AR for the Respondent.

Coram: **HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)**
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30205/2026

Date of Hearing: 17.12.2025
Date of Decision: 10.04.2026

[Order per: ANGAD PRASAD]

M/s Hindustan Petroleum Corporation Ltd (hereinafter referred to as the appellant) are in appeal against OIO dt.28.06.2013, whereby, Cenvat credit amounting to Rs.1,15,08,642/- has been disallowed along with interest and imposition of penalty.

2. The dispute pertains to the period October, 2010 to October, 2011, involving denial of credit on various input services, such as manpower, catering, insurance, construction, repair, transportation, etc. Out of the total demand, an amount of Rs.44,48,271/- stands already reversed and the balance amount has been contested. The department issued a SCN

dt.05.10.2012 alleging that such services are not 'input services' under Rule 2(l) of Cenvat Credit Rules (CCR), 2004 and hence not eligible for credit.

3. Learned Counsel for the appellant has submitted that a substantial amount of Rs.44,48,271/- was already reversed prior to the issuance of SCN and the balance credit pertains to eligible input services falling within the scope of Rule 2(l) of CCR, 2004. He has further submitted that the definition of 'input service' prior to 01.04.2011 is very wide and includes 'activities relating to business'. Even post 01.04.2011, only specific services are excluded and those exclusions must be strictly construed. He has placed reliance in this regard on the following case laws.

a) Coca Cola India Pvt Ltd Vs CCE [2009 (15) STR 657 (Bom HC)]
b) CCE Vs Ultratech Cement Ltd [2010 (260) ELT 369 (SC)]
c) CCE Vs Solaris Chemtech Ltd [2007 (214) ELT 481 (SC)]
d) Stanzen Toyotetsu India Pvt Ltd Vs CCE, Bangalore [2009 (14) STR 316 (Tri-Bang)]
e) Reliance India Ltd Vs CCE & ST [2022 (60) GSTL 442 (Tri-LB)]
f) Tata Teleservices (Maharashtra) Ltd Vs CST, Mumbai [2024 (16) Centax 160 (Tri-LB)]

4. He has also argued that services like manpower, insurance, cleaning, repairs, etc., are statutorily or operationally essential. Construction related services do not fall within the exclusion unless they are for new construction of building/ civil structure.

5. Learned AR for the department has submitted that the services, such as construction, civil works, catering, etc., are not directly related to manufacture. Post 01.04.2011, exclusions clearly bar credit on construction related services. It has also been submitted that appellant has failed to establish nexus.

6. Heard both sides and perused the records.

7. The issues that arise for consideration are as under.

a) Whether the impugned services qualify as input services under Rule 2(l) of CCR, 2004 or otherwise.

b) Whether the exclusion clause post 01.04.2011 is applicable to the services in question or otherwise.

c) Whether demands of interest and penalties are sustainable or otherwise.

8. The definition of 'input service', prior to 01.04.2011, is of widest amplitude, as held by Hon'ble Bombay High Court in the case of Coca Cola India Pvt Ltd (supra), wherein, it was held that any service having nexus with the business activity is eligible for credit. Hon'ble Supreme Court in the case of Ultratech Cement Ltd (supra) and in the case of Solaris Chemtech ltd (supra), has consistently held that the expression 'are in relation to manufacture' must be given a wide interpretation. In the present case, services, such as manpower, insurance, cleaning, catering, repair, etc., are clearly connected with the business operations. Therefore, Cenvat credit for the period prior to 01.04.2011 is admissible.

9. For the period post 01.04.2011, the definition of 'input service' was amended and specific exclusions were introduced. The exclusion clause covers, inter alia, construction services, Works Contract services and services used for construction of building or civil structures. From the records, it is evident that a substantial portion of disputed credit pertains to civil and structural works, construction works, miscellaneous civil works, painting and similar activities. These services are squarely covered under the exclusion clause where they relate to construction and civil structural works. The Coordinate Benches in several decisions have held that post amendment, such services are not eligible for credit. However, services such as manpower, insurance, cleaning, pest control, repairs and maintenance (to the extent not resulting in new construction) continue to remain eligible as they are not covered under the exclusion and are essential for business operations.

10. Therefore, it is evident that for the period prior to 01.04.2011, all credits are admissible and for the period post 01.04.2011, credits relating to construction and civil works are not admissible, however, credits relating to remaining services are admissible.

11. Since the adjudicating authority has not carried out proper segregation, the matter requires re-quantification. Interest is payable only

on the portion of the credit held inadmissible. Since the issue involves interpretation of law, penalty is not sustainable.

12. To sum up,

a) The impugned order is modified to the extent that for the period prior to 01.04.2011, credits are allowed and for the period post 01.04.2011, credits pertaining to construction works and civil works are disallowed and credits on other input services are allowed.
b) The matter is remanded back to the adjudicating authority for limited purpose of re-quantification of demand, as per the observations made above.
c) Interest is payable only on the portion of credit disallowed.
d) Penalty is set aside.

13. Appeal allowed partly.

(Pronounced in the Open Court on 10.04.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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