IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 76772 of 2019

(Arising out of Order-in-Appeal No. 11/CE/RKL-GST/2019 dated 26.04.2019 passed by the Commissioner (Appeals) CGST, Central Excise & Customs Central Revenue Buildign, Rajaswa Vihar, Bhubaneshwar-751007)

M/s. National Aluminium Co. Ltd. **: Appellant**
Corporate office, Nalco Bhawan,
P/1, Nayapalli, Bhubaneswar-751013

VERSUS

Commissioner of CGST, Central Excise & Customs, Rourkela **: Respondent**
Commissionerate, KK-42, Civil Township,
Rourkela-769004, Odisha

APPEARANCE:

Shri Jnanesh Mohanty, Advocate
MS. Shreya Mundhra, Advocate
For the Appellant

Shri D. Sue, Authorized Representative
For the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.77324/2025

DATE OF HEARING / DECISION: 05.08.2025

Order: [PER SHRI K. ANPAZHAKAN]

The facts of the case are that M/s. National Aluminium Company Limited (NALCO) (herein after referred as the appellant) is a central public sector undertaking and a Navratna Company under the Ministry of Mines, Government of India, engaged in manufacture of Aluminium metal falling under Chapter 76 of the Central Excise Tariff Act, 1985, at their Smelter plant located at Nalco Nagar, Angul, Odisha.

2.1. The Appellant avails CENVAT credit on various input services in terms of Rule 2(l) of the CENVAT Credit Rules, 2004, received and used in the factory for manufacturing activities.

2.2. Audit conducted on the appellant's unit observed that the appellant has availed and utilised ineligible Cenvat credit on various input services. On the basis of the audit observations, four show-cause-notices were issued by the Department disputing availment of input service credit on Rent-a-Cab, Travel Agency, Courier Services, Banking and Financial Services availed during the period 2007-08 to August 2014.

2.3. The Department alleged that the said services do not qualify as "input services" under Rule 2(l) of CENVAT Credit Rules, 2004 as they lack direct nexus with manufacturing activities and proposed recovery of the ineligible credit availed by the appellant under Rule 14 read with Section 11A(1)/11A(4) and 11AB/11AA of Central Excise Act, 1944 along with penalty under Rule 15(2) read with Section 11AC.

2.4. The said show-cause-notices were adjudicated by the Joint Commissioner who confirmed the entire demand of ₹83,78,004/- along with interest and imposed equal amount as penalty vide Order-in-Original No. 27-30/Joint Commr./C.Ex/RKL/2017-18 dated 31.01.2018, holding that services have no nexus with business activities.

2.5. On appeal, the Ld. Commissioner (Appeals) upheld the Order-in-Original vide impugned Order-in- Appeal No. 11/CE/RKL-GST/2019 dated 26.04.2019.

2.6. Being aggrieved by the impugned Order, the Appellant has filed the present appeal.

3. The Appellant submits that the disputed services were used in relation to business activities having direct relationship with manufacture of final product and provided work orders establishing the nature and scope of services undertaken. Thus, the appellant submits that the disputed services qualify as "input services" under Rule 2(l) of CENVAT Credit Rules, 2004 as they have direct nexus with manufacturing activities.

3.1. The appellant submits that for the period 2007-08 to 31.03.2011, the definition of "input service" under Rule 2(l) of the Cenvat Credit Rules, 2004 included "activities relating to business" which covered all disputed services. _It is a settled principle of law that the credit of service tax paid on aforesaid input services such as Rent-a-Cab, Travel Agency, Courier Services, Banking and Financial Services until 31.03.2011 are covered under the eligible category since these are used in or in relation to manufacture of final products, and therefore these qualify as eligible 'input service' under Rule 2(l) ibid. Reliance in this regard is placed on the following rulings:

CCE v. Ultratech Cement Ltd. 2010 (10) TMI 13 – Bombay HC

Coca Cola India Pvt. Ltd. [2009 (15) S.T.R. 657 (Bom.)]

3.2. Therefore, the Appellant submits that they are eligible for CENVAT credit and claimed that the impugned order is not sustainable to the extent it has denied the credit on these input services.

3.3. For the period after the amendment w.e.f. 01.04.2011, it is submitted that Rule 2(l) of the CENVAT Credit Rules, 2004 covers three categories of services, out of which the first category viz., (i) 'means' part of the definition, generally cover services which are used directly or indirectly, in or in relation to manufacture of final goods or for providing of output services; the second category viz., (ii) 'inclusion' part of the definition, specifically state certain services used in relation to various activities, which is used in relation to the manufacture of final products or provision of output services, both of which are covered under the scope of 'input services'. Further, the third category, viz., (iii) 'exclusion' part of the definition provided under Clauses (A), (B), (BA) and (C), specifically provide for certain services or portion of such services, which are not included in the above definition of 'input service'. _However, there are certain exceptions to this exclusion which are also given in the form of 'except for provision of certain services', 'except when used by certain category of persons', 'when such services are not primarily used for specified use' etc. Therefore, in order to come to the conclusion that a particular service is covered as 'input service', either it could be covered under category (i) or (ii) of the definition of input service as explained above, and such input service should not fall under the exclusion clauses mentioned in the third category (iii) above.

3.4. In the present case, the CENVAT Credit has been denied for the following services post 01.04.2011. The appellant relied on certain decisions in support of their claim of eligibility of the said services as 'input services. The decisions relied upon by the appellant in respect of each input service is mentioned below:

(i) Rent-a-cab services - Reliance in this regard is placed on CLASSIC MARBLE COMPANY PVT. LTD. AND ARVINDKUMAR AMICHAND SHAH VERSUS C.C.E. & S.T. -DAMAN 2019 (11) TMI 117 - CESTAT AHMEDABAD

(ii) Travel agency services - Reliance in this regard is placed on M/S. DR. REDDY'S LABORATORIES LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE, VISAKHAPATNAM 2021 (11) TMI 11 - CESTAT HYDERABAD

(iii) Courier services - Reliance in this regard is placed on HALDYN GLASS LTD VERSUS C.C.E. & S.T. -VADODARA-I 2025 (4) TMI 104 - CESTAT AHMEDABAD

(iv) Banking And Financial Services - Reliance in this regard is placed on (i) JSW Steel Ltd. v. Commissioner 2021 (12) TMI 381 - CESTAT BANGALORE (ii) Ahmednagar Forgings Ltd. v, Commissioner 2017 (6) G.S.T.L. 54 (Tri. - Mumbai), (iii) BS & B Safety Systems India Ltd Vs CCE Chennai - 2017 (52) STR 174 (Tri. - Chennai)

3.5. Thus, in view of the aforesaid judgments, the appellant submits that the CENVAT Credit of the aforesaid services are duly eligible to them.

3.6. The appellant further submits that extended period of limitation is not invocable for the first SCN and is partially time barred until February 2011. The appellant further submits that no interest is imposable and no penalty is recoverable.

4. The Ld. Authorized Representative of the Revenue reiterated the findings in the impugned order.

5. Heard both sides and perused the appeal records.

6. We observe that the Appellant availed CENVAT credit on various input services in terms of Rule 2(l) of the CENVAT Credit Rules, 2004, received and used in the factory for manufacturing activities. The Department disputed the availment of input service credit on Rent-a-Cab, Travel Agency, Courier Services, Banking and Financial Services for the period 2007-08 to August 2014, on the allegation that the said services do not qualify as "input services" under Rule 2(l) of CENVAT Credit Rules, 2004 as they lack direct nexus with manufacturing activities.

6.1. Regarding the input services credit availed by the appellant during the period 2007-08 to 31.03.2011, we observe that the definition of "input service" under Rule 2(l) of the Cenvat Credit Rules, 2004 included "activities relating to business" which covered all disputed services. _It is a settled principle of law that the credit of service tax paid on aforesaid input services such as Rent-a-Cab, Travel Agency, Courier Services, Banking and Financial Services until 31.03.2011 are covered under the eligible category since these are used in or in relation to manufacture of final products, and therefore these services qualify as eligible 'input service' under Rule 2(l) ibid.

6.2. In support of this view, we place our reliance on the decision of the Hon'ble Bombay High Court in the case of *CCE v. Ultratech Cement Ltd. 2010 (10) TMI 13 – Bombay HC,* wherein it has been held as under:

> *"29. The expression "activities in relation to business" in the definition of "input service" postulates activities which are integrally connected with the business of the assessee. If the activity is*

not integrally connected with the business of the manufacture of final product, the service would not qualify to be a input service under Rule 2(1) of the 2004 Rules.

30. The Apex Court in the case of Maruti Suzuki Ltd. (supra) has considered the expression used in or in relation to the manufacture of final product' in the definition of "input" under Rule 2(k) of 2004 Rules and held as follows:

> *"14. Moreover, the said expression, viz, "used in or in relation to the manufacture of the final product" in the specific/substantive part of the definition is so wide that it would cover innumerable items as "input" and to avoid such contingency the Legislature has incorporated the inclusive part after the substantive part qualified by the place of use. For example, one of the categories mentioned in the inclusive part is "used as packing material". Packing material by itself would not suffice till it is proved that the item is used in the course of manufacture of final product. Mere fact that the item is a packing material whose value is included in the assessable value of final product will not entitle the manufacturer to take credit. Oils and lubricants mentioned in the definition are required for smooth running of machines, hence they are included as they are used in relation to manufacture of the final product. The intention of the Legislature is that inputs falling in the inclusive part must have nexus with the manufacture of the final product. 16. In our earlier discussion, we have referred to two considerations as irrelevant, namely, use of*

input in the manufacturing process, be it director indirect as also absence of the input in the final product on account of the use of the expression "used in or in relation to the manufacture of final product". Similarly, we are of the view that consideration such as input being used as packing material, input used as fuel, input used for generation of electricity or steam, input used as an accessory and input used as paint are per se also not relevant. All these considerations become relevant only when they are read with the expression "used in or in relation to the manufacture of final product" in the substantive/specific part of the definition. In each case it has to be established that inputs mentioned in the inclusive part is "used in or in relation to the manufacture of final product". It is the functional utility of the said item which would constitute the relevant consideration. Unless and until the said input is used in or in relation to the manufacture of final product within the factory of production, the said item would not become an eligible input. The said expression "used in or in relation to the manufacture' have many shades and would cover various situations based on the purpose for which the input is used. However, the specified input would become eligible for credit only when used in or in relation to the manufacture of final product. Hydrogen gas used in the manufacture of sodium cyanide is an eligible input, since it has a significant role to play in the manufacturing process and since the final product cannot emerge without the use of gas. Similarly, Heat Transfer Oil used as a heating medium in the manufacture of LAB is an eligible input since

> *it has a persuasive role in the manufacturing process and without its use it is impossible to manufacture the final product.Therefore, none of the categories in the inclusive part of the definition would constitute relevant consideration per se. They become relevant only when the above crucial requirement of being "used in or in relation to the manufacture" stands complied with. In our view, one has to therefore read the definition in its entirety."*

31. In our opinion, the ratio laid down by the Apex Court in the case of Maruti Suzuki Ltd. (supra) in the context of the definition of 'input' in Rule 2(k) of 2004 Rules would equally apply while interpreting the expression "activities relating to business" in Rule 2(1) of 2004 Rules. No doubt that the inclusive part of the definition of 'input' is restricted to the inputs used in or in relation to the manufacture of final products, whereas the inclusive part of the definition of input service extends to services used prior to/during the course of/after the manufacture of the final products. The fact that the definition of input service' is wider than the definition of input' would make no difference in applying the ratio laid down in the case of Maruti Suzuki Ltd. (supra) while interpreting the scope of 'input service'. Accordingly, in the light of the judgment of the Apex Court in the case of Maruti Suzuki Ltd. (supra), we hold that the services having nexus or integral connection with the manufacture of final products as well as the business of manufacture of final product would qualify to be input service under Rule 2(1) of 2004 Rules.

32. As rightly contended by Shri Shridharan, learned Counsel for the respondent-assessee, in the present case, the assessee carrying on the business of manufacturing cement by employing more than 250 workers is mandatorily required under the provisions of the Factories Act, 1948 to provide canteen facilities to the workers. Failure to do so entails penal consequences under the Factories Act, 1948. To comply with the above statutory provision, the assessee had engaged the services of a outdoor caterer. Thus, in the facts of the present case, use of the services of an outdoor caterer has nexus or integral connection with the business of manufacturing the final product namely, cement. Hence, in our opinion, the Tribunal was justified in following the Larger Bench decision of the Tribunal in the case of GTC Industries Ltd. (supra) and holding that the assessee is entitled to the credit of service tax paid on outdoor catering service. 33. It is argued on behalf of the Revenue that not only the ratio but the decision of the Apex Court in the case of Maruti Suzuki Ltd. (supra) must be applied ipso facto to hold that the credit of service tax paid on outdoor catering services is allowable only if the said services are used in relation to the manufacture of final products. That argument cannot be accepted because unlike the definition of input, which is restricted to the inputs used directly or indirectly in or in relation to the manufacture of final products, the definition of input service' not only means services used directly or indirectly in or in relation to manufacture of final products, but also includes services used in relation to the business of manufacturing the final products. Therefore, while interpreting the words used in the definition of 'input service', the ratio laid down by the Apex Court in the context of the definition of 'input' alone would apply and not the judgment in its *entirety. In other words, by applying the ratio laid down by the Apex Court in the case of Maruti Suzuki Ltd. (supra), it cannot be said that the definition of input service' is restricted to the services used in relation to the manufacture of final products, because the definition of input service' is wider than the definition of 'input'.*

34. Therefore, the definition of input service read as a whole makes it clear that the said definition not only covers services, which are used directly or indirectly in or in relation to the manufacture of final product, but also includes other services, which have direct nexus or which are integrally connected with the business of manufacturing the final product. In the facts of the present case, use of the outdoor catering services is integrally connected with the business of manufacturing cement and therefore, credit of service tax paid on outdoor catering services would be allowable.

35. The argument of the Revenue, that the expression "such as" in the definition of input service is exhaustive and is restricted to the services named therein, is also devoid of any merit, because, the substantive part of the definition of input service' as well as the inclusive part of the definition of input service' purport to cover not only services used prior to the manufacture of final products, subsequent to the manufacture of final products but also services relating to the business such as accounting, auditing.... etc. Thus the definition of input service seeks to cover every conceivable service used in the business of manufacturing the final products. Moreover, the categories of services enumerated after the expression 'such as' in the definition of 'input service' do not relate to any particular class or category of services, but refer to variety of services used in the business of manufacturing the final *products. There is nothing in the definition of input service' to suggest that the Legislature intended to define that expression restrictively. Therefore, in the absence of any intention of the Legislature to restrict the definition of 'input service' to any particular class or category of services used in the business, it would be reasonable to construe that the expression 'such as' in the inclusive part of the definition of input service is only illustrative and not exhaustive. Accordingly, we hold that all services used in relation to the business of manufacturing the final product are covered under the definition of input service and in the present case, the outdoor catering services being integrally connected with the business of the manufacture of cement, credit of service tax paid out on catering services has been rightly allowed by the Tribunal.*

36. The argument of the Revenue that the expression "such as" in Rule 2(1) of 2004 Rules is restricted to the categories specified therein, runs counter to the C.B.E.C. Circular No.97, dated 23rd August, 2007. In that Circular the C.B.E.C. (vide para 8.3) has held that the credit of service tax paid in respect of mobile phone service is admissible provided the mobile phone is used for providing output service or used in or in relation to manufacture of finished goods. Mobile phone service is neither used in the manufacture of final product nor it is specifically included in the definition of input service. Even then, the C.B.E.C. has construed the definition of input service widely so as to cover not only the services specifically enumerated in the definition of 'input service' but also cover all services which are used in relation to the business of manufacturing the final products. Therefore, the argument of the revenue which runs counter to stand taken by the C.B.E.C. cannot be accepted.

37. In the case of Coca Cola India Pvt. Ltd. (Supra) a Division Bench of this Court has considered scope of the expression "input service' as defined in rule 2(1) of 2004 Rules. In that case, the question for consideration was, whether a manufacturer of non alcoholic beverage bases (concentrates) is eligible to avail credit of service tax paid on advertisement, sales promotion, market research etc. The argument of the revenue in that case was that the advertisements are not relatable to the concentrate manufactured by Coco Cola India Pvt. Ltd. (supra) and hence, the credit in respect thereof cannot be allowed. Considering the Finance Minister's Budget Speech for 2004-05, press note issued by the Ministry of finance along with the Draft 2004 Rules and various decisions of the Apex Court, this Court held that the expression 'activities in relation to business' in the inclusive part of the definition of 'input service' further widens the scope of input service so as to cover all services used in the business of manufacturing the final products and that the said definition is not restricted to the services enumerated in the definition of input service itself. The Court rejected the contention of the revenue that a service to qualify as an input service must be used in or in relation to the manufacture of the final products and held that any service used in relation to the business of manufacturing the final product would be an eligible input service.

38. We concur with the above decision of this Court in the case of Coco Cola India Pvt. Ltd. (supra). However, in that case, this Court has also held that the cost of any input service that forms part of value of final products would be eligible for CENVAT credit. That observation of the Division Bench is made in the context of a service which is held to be

> *integrally connected with the business of manufacturing the final product. Therefore, the observation of the Division Bench in the case of Coca Cola India Pvt. Ltd. (supra) has to be construed to mean that where the input service used is integrally connected with the business of manufacturing the final product and the cost of that input service forms part of the cost of the final product, then credit of service tax paid on such input service would be allowable."*

6.3. We also place our reliance on the decision in the case of *Coca Cola India Pvt. Ltd. [2009 (15) S.T.R. 657 (Bom.)].*

6.4. By following the decisions cited supra, we hold the all the disputed input services in this case are used in relation to the business of the appellant. Accordingly, we hold that the appellant is eligible for the credit of all those disputed input services during the period 2007-08 to 31.03.2011.

7. We observe that with effect from 01.04.2011, the definition of 'input services' has been amended. For ready reference, the amended definition is reproduced below:

> *"2(l) – 'input service' means-*
>
> *(i) services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India where service tax is paid by the manufacturer or the provider of output service being importer of goods as the person liable for paying service tax for the said taxable services and the said imported goods are his inputs or capital goods; or*
>
> *(ii) any service used by a provider of output service for providing an output service; or*
>
> *(iii) any service used by a manufacturer, whether directly or indirectly, in or in relation to the*

manufacture of final products and clearance of final products up to the place of removal,

and includes services used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage up to the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal; but excludes,-

(A) service portion in the execution of a works contract and construction services including service listed under ***clause (b) of section 66E*** *of the Finance Act (hereinafter referred as specified services) in so far as they are used for –*

(a) construction or execution of works contract of a building or a civil structure or a part thereof; or

(b) laying of foundation or making of structures for support of capital goods, except for the provision of one or more of the specified services; or

*(B) services provided by way of renting of a motor vehicle****]****, in so far as they relate to a motor vehicle which is not a capital goods; or*

(BA) service of general insurance business, servicing, repair and maintenance, in so far as they relate to a motor vehicle which is not a capital goods, except when used by-

(a) a manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person ; or

(b) an insurance company in respect of a motor vehicle insured or reinsured by such person; or

(c) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee;"

Explanation.-For the purpose of this clause, sales promotion includes services by way of sale of dutiable goods on commission basis."

7.1. As per the amended definition of 'input services', Rule 2(l) of the CENVAT Credit Rules, 2004 covers three categories of services, out of which the first category viz., (i) 'means' part of the definition, generally cover services which are used directly or indirectly, in or in relation to manufacture of final goods or for providing of output services; the second category viz., (ii) 'inclusion' part of the definition, specifically state certain services used in relation to various activities, which is used in relation to the manufacture of final products or provision of output services, both of which are covered under the scope of 'input services'. Further, the third category, viz., (iii) 'exclusion' part of the definition provided under Clauses (A), (B), (BA) and (C), specifically provide for certain services or portion of such services, which are not included in the above definition of 'input service'.

7.2. We have gone through the input services on which CENVAT Credit has been denied in the impugned order. On perusal, we find that the input service namely, Rent-a-cab services has been specifically excluded from the definition of 'input service'. In view of the specific exclusion, we observe that the appellant is not eligible for the credit availed on the input services namely, Rent-a-cab services. We observe that the disallowance of CENVAT Credit on rent-a-cab service has been upheld by the Hon'ble Apex Court in the case of *Solar Industries Industries India Ltd. Vs. Commissioner of Central Excise, Customs & Service Tax, Nagpur-II, 2022 (64) G.S.T.L. 257 (S.C.),* wherein it has been held as under:

> "*[Order]. - Delay condoned.*
>
> *2. Providing transportation service to the employees cannot be said to be "input service" as it has nothing to do with the manufacture of the goods.*
>
> *3. In that view of the matter, it cannot be said that the High Court has committed any error in denying the Input Tax Credit and holding that such a service is excluded from the input service.*
>
> *4. We are in complete agreement with the view taken by the High Court.*
>
> *5. The Special Leave Petition stands dismissed.*
>
> *6. Pending applications stand disposed of."*

7.3. Thus, by following the decision cited supra, we hold that the appellant is not eligible for the credit availed by them in respect of Rent-a-cab services. The appellant is liable to reverse the credit availed and utilized on Rent-a-cab services. along with interest. As there is no suppression of fact with intention to avail irregular credit established in this case, we hold that no penalty imposable on the appellant on account of reversal of this credit availed on Rent-a-Cab service.

7.3.1. Regarding the issue of liability to pay interest on the irregular credit availed in respect of rent-a-cab service, it is required to ascertain the balance available in the CENVAT Credit account of the appellant during the relevant period and if the balance available in the CENVAT Credit account during the relevant period is more than the CENVAT Credit denied in this Order in respect of rent-a-cab service, then there shall be no liability to pay interest on the part of the appellant. However, if the credit balance is less than the CENVAT Credit denied in respect of rent-a-cab service, then the interest shall be liable to be paid by the appellant.

7.4. In respect of other input services, we observe that they fall within the ambit of the 'means' part of the definition, which covers services which are used directly or indirectly, in or in relation to manufacture of final goods or for providing of output services. We find that eligibility of credit in respect of the other services are supported by various decisions of the Hon'ble High Courts and Tribunals.

7.5. We observe that the credit availed by the appellant on Travel agency services as 'input services is supported by the decision in the case of *M/S. DR. REDDY'S LABORATORIES LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE, VISAKHAPATNAM 2021 (11) TMI 11 - CESTAT HYDERABAD,* wherein the Tribunal has observed as under:

> *9. Further, it is important to note that the input service definition under Rule 2 (l) of CCR, w.e.f. 01.04.2011, also expressly provided certain activities/services used for specified purposes cannot treated as an 'input service' for the purpose of CENVAT Credit Rules, 2004, as mentioned in the exclusion portion of the said Rule 2 (l) of CCR. The subject services viz., Air Travel Agency Service and Convention Service are not forming a part of the exclusion clause of the definition under Rule 2 (l) of CCR. For this reason also, I opine, that Air Travel Service being not exclusively excluded but being covered under inclusive part of the definition, is the service eligible for Cenvat Credit.*

7.6. With respect to the credit availed on Courier services , we rely on the decision of the Tribunal at Ahmedabad in the case of *HALDYN GLASS LTD VERSUS C.C.E. & S.T. -VADODARA-I 2025 (4) TMI 104 - CESTAT AHMEDABAD,* wherein it has been observed as under:

> *4. This Court has considered the rival submission. This Court finds that the decision as contained in final order of Dynaflex Pvt. Ltd. Vs. CCE and ST Vadodara- ii, in which, inter alia, the present appellant was also a party, was concerned with the period post amendment of year 2011 and was considered by the Bench, while dealing with the matter. The following relevant paras are reproduced below to indicate that the issue is para materia and the decision observes to be followed:-*
>
> *"6. The core Issue for determination is: whether the appellants are eligible to CENVAT credit of the Service Tax nald on 'Courier Services'. The present appellants are manufacturer of excisable goods and utilized the Courier Services' In sending the Samples, Documents and Finished Goods to their customers. Revenue has not seriously disputed admissibility of Cenvat Credit on the 'Courier Services for the period prior to 01.4.2011. It is their contention that after amendment to the definition of 'Input Service' prescribed at Rule 2(1) of CCR, 2004 with effect from 01.4.2011, that is, consequent to the deletion of the expression 'activities relating to business, such as the 'Courier Services' would fall outside the scope of the definition of 'Input Services' and hence not eligible to credit. The amended Rule with effect from 01.04.2011 reads as follows:*

(i) "Input Service" means any service.-

(ii)...

(ii) used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products, upto the place of removal,

and includes services used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs. accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security business exhibition, legal services, Inward transportation of inputs or capital goods and outward transportation upto the place of removal, but excludes services,

7. A simple reading of the said amended provision, makes it clear that though the expression 'activities relating to business, such as has been deleted, but the illustrative services viz., Accounting, Auditing, Financing, Recruitment and quality control, Coaching/training, Computer Networking, Credit Rating, Share Registry, Legal Services, Security, Business Exhibition etc., even though directly not related to manufacturing activity, being not used inside the factory premises, but continued to remain in the said definition of input service. Needless *to mention that these services are even though not directly linked to the manufacturing activity in the factory premises of the assessee but connected or related to the business of manufacturing activity which also involve marketing/sale of the manufactured goods. Therefore, the contention of the Revenue that unless the activity has a direct nexus with the manufacturing of goods in the factory premises, post deletion of the expression activities relating to business, could not entitle the assessee to avail credit on the Service Tax paid on services, including 'Courier Services' which are not directly connected with the manufacturing activity. It cannot be denied that 'Courier Service Involves a host of uses relating to the activity of manufacture and sale of goods. For example, the documents relating to technical expert's opinion, sample testing report, sending of samples, machine catalogue etc. are received and dispatched by utilizing the services of 'Courier' and it cannot be said that these are de hors of the activities of manufacturing business. This Tribunal in the cases of Long Meditech Ltd and Sunbeam Generators Pvt Ltd (supra) opined that credit avail on Service Tax paid on 'Courier Serves' is eligible to Cenvat Credit.*

8. In the result, I am of the view that Service Tax paid on the 'Courier Services for various purposes viz., Sending Samples, Documents, finished goods etc., would be eligible to Cenvat Credit before and even after amendment to the definition to the 'Input Services' with effect from 01.4.2011. In the result the impugned Orders are set aside and the Appeals are allowed with consequential relief, if any, as per

> *law. Appeals disposed off accordingly".*
>
> *4.1 In view of the aforesaid discussion, this Court is convinced that the matter is being covered, the decision cited above by the learned Advocate deserves to be followed. And that the decision quoted by A.R is not relevant to the context.*
>
> *5. Appeal is therefore allowed with consequential relief.*

7.7. In respect of the credit availed on Banking And Financial Services, we place our reliance in the case of *Ahmednagar Forgings Ltd. v, Commissioner 2017 (6) G.S.T.L. 54 (Tri. - Mumbai),* wherein it has been held as under:

> *6.1 It is undisputed that M/s. PL Advisory Service Pvt. Ltd. have placed preferential equity shares of the appellant for raising of funds/finance for the appellant. It is noticed from the records and more specifically from the order-in-appeal, that appellant had been taking this plea before the adjudicating authority as well as before the first appellate authority that the amounts so raised were used for the manufacturing activity as infusement of capital. In my considered view, the adjudicating authority as well as the first appellate authority have misdirected their entire findings in denying Cenvat credit of the service tax paid under 'Banking & Other Financial Services' by the said M/s. PL Advisory Service Pvt. Ltd.*

7.7.1. A similar view has also been expressed in the case of *BS & B Safety Systems India Ltd. v. Commissioner of C.Ex., Chennai-IV [2017 (52) S.T.R. 174 (Tri. – Mad.),* wherein the input service credit on Banking and other Financial Services availed by the assessee has been allowed.

7.8. Thus, by relying on the decisions cited supra, we hold that the appellant is eligible for the credit of all input services other than Rent-a-Cab service on which they have availed the credit, as the said services are covered with the ambit of the 'means' part of the definition as provided under Rule 2(l) of the CENVAT Credit Rules, 2004.

7.9. As the credit availed by the appellant in respect of all input services, other than Rent-a-Cab service, are held to be eligible, we hold that no interest or penalty is imposable on the appellant in this regard.

8. In view of the above findings, we pass the following order:

(i) We hold that he appellant is eligible to avail the credit in respect of all input services other than Rent-a-Cab service. Accordingly, we set aside the demand confirmed for recovery of ineligible credit in respect of all input services other than Rent-a-Cab service. We hold that no interest or penalty imposable on the appellant.

(ii) We hold that the appellant is **not** eligible for the credit availed by them in respect of Rent-a-cab services. The appellant is liable to reverse the credit availed and utilized by them on Rent-a-cab services.

(iii) Regarding the liability to pay interest on the irregular credit availed in respect of rent-a-cab service, it is required to ascertain the balance available in the CENVAT Credit account of the appellant during the relevant period and if the balance available in the CENVAT Credit account during the relevant period is more than the CENVAT Credit denied in this Order in respect of rent-a-cab service, then there shall be no liability to pay interest. However, if the credit balance is less than the CENVAT Credit denied in respect of rent-a-cab service, then the interest shall be liable to be paid by the appellant.

(iv) As there is no suppression of fact with intention to avail irregular credit established, we hold that no penalty is imposable on the appellant on account of reversal of this credit availed on Rent-a-Cab service.

9. The appeal filed by the appellant is disposed of on the above terms.

(Operative part of Order was pronounced in Open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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