IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NO: ST/87141/2017

[Arising out of Order-in-Appeal No: SK/12/LTU/MUM/2017-18 dated 22nd May 2017 passed by the Commissioner of Central Excise (Appeals), LTU, Mumbai – I.]

Tata Consultancy Services Ltd …***Appellant***

versus

Commissioner of Central Excise & Service Tax
LTU, Mumbai …***Respondent***

Appearance:

Shri Prasad Paranjape, Advocate for appellant

Shri Vivek Dwivedi, Assistant Commissioner (AR) for respondent

CORAM:

Hon'ble Shri C J Mathew, Member (Technical)

Date of hearing: 04/12/2017
Date of decision: 04/12/2017

ORDER NO: A/ 92252 / 2017

The issue in this appeal filed against order-in-appeal no. SK/12/LTU/MUM/2017-18 dated 22nd May 2017 of Commissioner of Central Excise (Appeals), LTU, Mumbai–I, pertains to denial of CENVAT credit availed on certain input services on the ground that appellant, M/s Tata Consultancy Services Ltd, was not able to establish the nexus with the output services. The dispute for the period from April 2005 to March 2010 relates to credit availed by M/s

CMC Ltd (an erstwhile public sector enterprise which was taken over by M/s Tata Consultancy Services Limited under the disinvestment scheme of Government of India) and merged with the appellant-company *vide* scheme of amalgamation approved by Hon'ble High Court of Bombay dated 14th August 2015. Hence the filing of appeal by M/s Tata Consultancy Services Limited.

2. In dispute are 'cleaning activity service' on which credit of ₹ 5,89,304/- has been availed, 'mandap-keeper service' on which credit of ₹ 51,179/- has been availed, 'outdoor catering service' on which credit of ₹25,159/- has been availed, 'business support service' on which ₹ 12,666/- has been availed and 'authorized service station' on which an amount of ₹ 3,550/- has been availed.

3. It is the contention of the Learned Counsel for appellant that these services were used in relation to their business activity who explained that 'cleaning activity services' were outsourced to M/s Welcome Support Services and Pride Hotel for maintenance of their guest-house that was used for housing of its personnel on temporary duty.

4. Learned Authorised Representative reiterated the contents of the impugned order and submits that no evidence has been produced to indicate the extent to which the guest-houses were used only for business purposes.

5. Guest-houses are obviously meant to accommodate guests and that there cannot be any stipulation that only business activities should be transacted in guest-houses. By its nomenclature, its primary purpose is to house and not to transact only business within it. The decision in *Commissioner of Customs & Central Excise, Hyderabad – III v. ITC Limited* [2013 (32) STR 288 (AP)], relied upon by Learned Counsel, makes it amply clear that services required for maintenance of essential accommodation is a necessary business activity and not a welfare measure.

6. On mandap-keeper services, it is the submission of Learned Counsel that the premises hired for conferring awards on star performers cannot be alienated from the scope of business activities. Reliance is placed upon the decision of the Hon'ble High Court of Karnataka in *Toyota Kirloskar Motor Pvt Ltd v. Commissioner of Central Excise, Bangalore [2011 (24) STR 645 (Kar.)]* based on the principle that all activities relating to business are entitled to availment of credit.

7. In relation to the credit availed on outdoor catering services, as pointed out by the Learned Counsel, the decision of the Hon'ble High Court of Bombay in *Commissioner of Central Excise, Nagpur v. Ultratech Cement Ltd [2010 (20) STR 577 (Bom.)]* sustain the contention. It is found that this judgment is directly on the issue of entitlement for availment of CENVAT credit.

8. It is submitted by Learned Counsel that the business support services, which were claimed as input service related to supply of meal coupon by duly recognized agencies and whose vendors paid the tax as provider of procurement of business support services. Reliance has been placed on the decision of the Tribunal in *Commissioner of Service Tax, Bangalore v. Yodlee Infotech (P) Ltd [2015 (39) STR 695 ((Tri.Bangl)]* which allows availment of CENVAT credit.

9. On repairs and maintenance service, the decision of the Hon'ble High Court of Karnataka in *Commissioner of Central Excise & Service Tax v. Mangalore Refinery & Petrochemicals Ltd [2016 (42) STR 6 (Kar.)]* has been cited by the Learned Counsel for appellant. On a perusal of the facts relating to the service, it appears that the credit availed was that of tax paid on service charges paid to authorized service station. According to Learned Counsel, the maintenance and repairs of vehicles registered in the name of the appellant should be an automatic entitlement as there could be no contention that the vehicles were not used for the purpose of business activities. The decision in *re Mangalore Refinery & Petrochemicals Ltd* sustains this position.

10. Considering the enumerated decision in their favour, the impugned order is set aside and the appeal is allowed.

(Pronounced in Court)

(C J Mathew)
Member (Technical)

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