IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO.

Appeal No. E/87163/2017

(Arising out of Order-in-Appeal No. PK/201/Bel/2017 dt.05.06.2017 passed by the Commissioner of Customs & Central Excise)

M/s. Pidilite Industries Ltd. : **Appellant**

VS

Commissioner of Customs & Central Excise : **Respondent**

Appearance

Shri Jeffrey Pereira,
(Head Indirect Taxes) for Appellant

Shri Deepak S. Chavan, Supdt. (A.R) for respondent

CORAM:

Hon'ble Shri Ramesh Nair, Member (Judicial)

Date of hearing : 04/05/2018
Date of pronouncement: 25/05/2018

ORDER NO. A/86585/2018

The present appeal has been filed against Order-in-Appeal dt. 05.06.2017 passed by Commissioner (Appeals- II), Mumbai Zone - II wherein the credit in respect of service viz. Air Travel Agents Service, Banking and Other Financial Services, Business Auxiliary Service, Clearing Service, Clearing & Forwarding Agent, Club and Association, Consulting Engineers Services, Container by Rail, Courier Services, Development and Supply of Content Services, Event Management, Erection Commission or Installation Services, Insurance Services, Intellectual Property Service, Mailing List Compilation and Mailing Services, Mandap Keepers, Public Relation

Service, Rail Travel Agents, Renting of Immovable Property, Sound Recording Services, Telecommunication, Telegraph and Telephone Services, Tour Operators has been denied to the appellant. Hence the present appeals by the Appellant.

2. Shri Jeffrey Perera (Head indirect taxes of the appellant unit) submits that in cases of service of Air Travel Agents, Event Management, Mandap Keepers, Public Relation Service, Rail Travel Agents, Tour Operators, Insurance Service, Intellectual Property Service, Mailing List Compilation and Mailing Services, Renting of Immovable Property, Sound Recording Services, Telecommunication Services and Telephone Services credit of Service Tax stands allowed to them in their own case by the Tribunal vide Final Order No. A/90438-90449/17/SMB dt. 13.10.2017 and in respect of Club & Association, Membership of Club the credit was disallowed by the tribunal vide aforesaid Final Order. He further submits that in case of remaining services the credit is also eligible to them as per the use of impugned services. He has produced chart showing use of services. He prays that since the service has been used directly, indirectly in manufacturing, business operations and sales of goods, therefore they are eligible for the credit.

3. Shri Deepak S. Chavan Superintendent (A.R.) appearing for revenue submits that since services are not utilized in relation to manufacturing of goods, therefore the credit is not available.

4. Heard both the sides and pursued facts of the case we find that in respect of the services Air Travel Agents, Event Management, Mandap Keepers, Public Relation Service, Rail Travel Agents, Tour Operators, Insurance Service, Intellectual Property Service, Mailing List Compilation and Mailing Services, Renting of Immovable Property, Sound Recording Services, Telecommunication Services and Telephone Services the credit stands allowed vide Final Order No. A/90438-90449/17/SMB dt. 13.10.2017. Since the issue of credit in respect of aforesaid services already stands settled in favour of appellant in their own case, therefore applying the same ratio, I hold that in present appeal also credit is available to the appellant in respect of said services. In respect of remaining services I find from use of services in the Appellant company and the Tribunal's orders in same set of facts that the credit is available to the Appellant as per chart below :

Sn.	Services	Use of services by Appellant	Judgments
1.	Banking & Other Financial Service	The said Services were used to covert Indian Currency into Foreign Currency.	Ultratech Cement 2010 (20) S.T.R. 577 (Bom) Thiru Arooran Sugars Ltd. 2013 (32) S.T.R. 435 (Tri.-Chennai)
2.	Business Auxiliary Service	The said Services were used for product promotion and enhancing the sale.	Ultratech Cement 2010 (20) S.T.R. 577 (Bom). ThiruArooran Sugars Ltd. 2013 (32) S.T.R. 435 (Tri.-Chennai)
3.	CING Service other than Agri. Hoti. Animal Husb.	The said Service is related with Renting of Immovable	Ultratech Cement 2010 (20) S.T.R. 577 (Bom). ThiruArooran Sugars Ltd. 2013 (32) S.T.R. 435 (Tri.-

		property service and are common service.	Chennai)
4.	Clearing & Forwarding Agent	The said Service are used in relation to receipt and sale of our finished goods from depots.	Ultratech Cement 2010 (20) S.T.R. 577 (Bom). Heera overseas 2012 (280) E.L.T. 514 (Tri.-Bang.)
5.	Club and Association	The said Services are pertains to membership fees paid to Indo-French chanber of commerce.	Ultratech Cement 2010 (20) S.T.R. 577 (Bom). Hinduja Foundries Ltd. 2016 (42) STR 494
6.	Consulting Engineers Services	The said Services were used for production and safety dept. in factory.	Ultratech Cement 2010 (20) S.T.R. 577 (Bom). ThiruArooran Sugars Ltd. 2013 (32) S.T.R. 435 (Tri.-Chennai)
7.	Container by Rail	The said Services were used for transportation of finished goods from one depot to other.	Ultratech Cement 2010 (20) S.T.R. 577 (Bom). ThiruArooran Sugars Ltd. 2013 (32) S.T.R. 435 (Tri.-Chennai)
8.	Courier Services	The said Services were used for sending bills, documents from factory to headquarters.	Ultratech Cement 2010 (20) S.T.R. 577 (Bom). Hinduja Foundries Ltd. 2016 (42) STR 494
9.	Development and Supply of Content Services	The said Services were received to conduct events, campaigns for promotion of sale of our products.	Ultratech Cement 2010 (20) S.T.R. 577 (Bom), John Deree India Pvt. Ltd. 2016 (41) STR 990 (Tri-Mum)
10.	Erection Commission or Installation Services	The said Services are directly related to manufacturing activity.	Ultratech Cement 2010 (20) S.T.R. 577 (Bom). J.P. Morgan Services (I) P. Ltd. 2016 (42) STR 196
11.	Telegraph Services	The said Services are used for communication of employee with vendors.	Ultratech Cement 2010 (20) S.T.R. 577 (Bom). John Deree India Pvt. Ltd. 2016 (41) STR 990 (Tri-Mum)

Applying the ratio of above judgments, I therefore hold that appellant is eligible for the credit of Service Tax paid on above services. I therefore modify the impugned Order-in-Appeal to the above extent by allowing the cenvat credit on impugned services. The appeal is allowed in the above terms.

(Pronounced in court on 25/05/2018)

(Ramesh Nair)
Member (Judicial)

SM.