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

Appeal No. E/85929/2018

(Arising out of Order-in-Appeal No. PUN-EXCUS-001-APP-936/2017-18 dated 26.12.2017 passed by Commissioner of Central Tax (Appeals), Pune I)

Force Motors Ltd. **Appellant**

Vs.

Commissioner of Central Tax, Pune **Respondent**

Appearance:

Shri S.S. Havaldar, Advocate for appellant
Shri S.J. Sahu, Asst. Commr (AR) for respondent

CORAM:

Hon'ble Mr. S.K. Mohanty, Member (Judicial)

Date of Hearing & Decision : 12.06.2018

FINAL ORDER NO **A/86896 / 2018**

Per: S.K. Mohanty

Brief facts of the case are that the appellant is engaged in manufacturing of motor vehicle, engines and parts thereof. The appellant discharges Central Excise duty liability on removal of the said final products from its factory. The appellant avails CENVAT Credit of service tax paid on various input services, used for its manufacturing activity within the factory premises. During the disputed period, the appellant had availed CENVAT Credit of service tax paid on 'manpower recruitment & supply agency service' and 'training & coaching service' received by it from the service provider. Taking of CENVAT Credit on such services was disputed by the department on the ground that those services have nexus with the manufacture of final product and thus, should not be considered as ‘input service’ for the purpose of availment of the Cenvat benefit. The show cause notice issued by the Department was adjudicated against the appellant, in denying the CENVAT Credit on such disputed services. Besides, the adjudication order also imposed penalty on the appellant. On appeal, the learned Commissioner (Appeals) vide order dated 26.12.2017 has upheld the adjudged demand confirmed on the appellant. Feeling aggrieved with the impugned order, the present appeal is preferred by the appellant.

2. Heard both sides and perused the case records.

3. The short question involved in this appeal for consideration by the Tribunal is whether, the disputed services namely ‘manpower recruitment & supply agency service’ and ‘training & coaching service’ should merit consideration as ‘input service’ for the purpose of availment of CENVAT benefit.

4. On perusal of the case records, I find that use/utilization of the disputed services were within the factory premises of the appellant for complying with statutory requirements mandated under the Factories Act, 1948 read with Maharashtra Factories

Rules, 1963. As per the requirements of said statutes, maintenance of garden and for providing medical / clinical facilities to the employees within the factory premises, is required to be adhered to by the manufacturer. Thus, in my considered view, since the appellant had availed such services for complying with the statutory requirements, the service tax paid thereon should be available for Cenvat credit. I find that the Hon'ble Madras High Court in the case of *Sri Rama Vilas Services Ltd. v. CESTAT, Chennai – 2017 (3) G.S.T.L.24 (Mad.)* and also this Tribunal in the case of Nhava Sheva Intl. Container Terminal (P) Ltd. v. Commissioner of Central Excise Raigad – 2017 (3) G.S.T.L. 509 (Tri – Mum) have extended the Cenvat benefit on the disputed services, holding that providing of such services within the factory is a statutory requirement and should be considered as 'input services' for the manufacturing activities.

5. Therefore, I do not find any merits in the impugned order passed by the learned Commissioner (Appeals). Accordingly, after setting aside the same, I allow the appeal in favour of the appellant.

(Order dictated in Court)

(S.K. Mohanty)
Member (Judicial)

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