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

APPEAL NO: ST/85625/2018

[Arising out of Order-in-Appeal No: PUN-EXCUS-001-APP-751/2017-18 dated 30/11/2017 passed by the Commissioner of Central Tax (Appeals), Pune – I.]

Barclays Global Service Centre Pvt Ltd ***… Appellant***

versus

Commissioner of Central Tax
Pune – I ***…Respondent***

Appearance:

Shri Prasad Paranjape, Advocate for appellant

Shri M Suresh, Dy. Commissioner (AR) for respondent

Date of hearing	**23/04/2018**
Date of pronouncement	**18/05/2018**

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Hon'ble Shri Ramesh Nair, Member (Judicial)

ORDER NO: A/86262 / 2018

The brief facts of the case are that appellant is having service tax registration and engaged in providing taxable service. They had filed a refund claim for ₹ 1,14,79,918/- pertaining to the period from January 2015 to March 2015 in respect of service tax paid by them on the input services which had been used for their authorised operations as per Notification No. 12/2013-ST dated 1st July 2013. Upon examination of the refund claim, a request was made to the appellant telephonically for submission of copy of input service invoices received from United India Insurance Company Ltd involving credit of ₹ 23,05,740/- along with copies of letters of approval dated 20/02/2012, 07/11/2010, 02/01/2012 and 20/08/2009 which the appellant submitted on 24/12/2016.

2. On scrutiny of the refund claim along with the documents submitted by the appellant the respondent observed in the impugned order-in-original that the appellant was not eligible for refund of ₹ 23,05,740/- out of the total amount of ₹ 1,14,79,918/-. The reasons stated in the order-in-original was that the CENVAT credit availed against general insurance services received by invoice No. 002/2015-16 dated 26/02/2015 provided by M/s United India Insurance Company Ltd was involving group mediclaim tailor made policy for 2015-16. The said service of mediclaim was not covered by the approved list of services. Therefore, the adjudicating authority rejected the claim for ₹ 23,05,740/- on mediclaim. Being aggrieved by the order-in-original appellant filed appeal before Commissioner (Appeals) who by agreeing with the adjudicating authority rejected the appeal and upheld the order-in-original dated 31/01/2012. Therefore the appellant is before me.

3. Shri Prasad Paranjape, Learned Counsel appearing on behalf of

appellant submits that as per letters of approval one of the service declared is general insurance which covers mediclaim, the said insurance was done with the United India Insurance which is a general insurance company. Therefore, the general insurance declared in letters of approval is a broad category which covers the mediclaim insurance also.

4. Therefore, it cannot be said that the appellant had not declared the mediclaim. He further submits that in any case the declaration of services in the letter of approval is a procedural requirement. Therefore, for breach of procedural requirement substantial benefit of refund cannot be rejected. He further submits that even if the refund is denied, the appellant is entitled for CENVAT credit and in turn they are entitled for refund under Rule 5 of CENVAT Credit Rules, 2004. He further submits that being a SEZ unit it is the general policy of the Government of India that neither on the input service nor on the output service any service tax is payable for the reason that the entire service is treated as export. He places reliance on the judgment of this Tribunal in the case of *Zydus Hospira Oncology Pvt Ltd v. Commissioner of Central Excise, Ahmedabad* 2013 (30) STR 487 (Tri. Ahmd).

5. Shri M Suresh, Dy. Commissioner (AR) reiterates the findings in the impugned order.

6. I have carefully considered the submissions made by both the sides. There is no dispute that the appellant had declared general insurance in the letter of approval. Mediclaim insurance is one of the insurance policy under the general insurance. The insurance was done by M/s United India Insurance Company Ltd, which is undisputedly involved in the business of general insurance and not any life insurance. Therefore, the 'general insurance' term clearly covers the mediclaim. It is also observed that the appellant being a SEZ unit their input services otherwise not taxable and the output service being 100% exported no service tax is payable. I also agree with the submission of the Learned Counsel that if at all the appellant does not claim the refund under Notification No. 12/2013-ST the appellant will be entitled for the refund under Rule 5 of the CENVAT Credit Rules, 2004. I further observe that even if there is some discrepancy in declaring the input service in the letters of approval, so long as tax-paid input services were received and used in the SEZ unit, the refund should be allowed and only because of procedural lapse refund cannot be rejected.

7. As per my above observation the impugned order is not sustainable and the same is set aside. Appeal is allowed.

(Dictated in Court 18/05/2018)

(Ramesh Nair)
Member (Judicial)

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