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

Appeal No. ST/86984/2018

(Arising out of Order-in-Appeal No. CD/TR(APPEALS)/MC/48/ 2017-18 dated 07.02.2018 passed by the Commissioner of cgst & Central Excise (Appeals), Thane Rural).

M/s J.M. Financial Ltd.	Appellant

Vs.

Commissioner of CGST & Central Excise, Thane Rural	Respondent

Appearance:

None	for Appellant
Shri Onil Shivdikar, AC (AR)	for Respondent

CORAM:

SHRI RAJU, MEMBER (TECHNICAL)

Date of Hearing: 21.08.2018

Date of Decision: 24.08.2018

ORDER NO. **A/87166/2018**

Per: Raju

This appeal has been filed by M/s J.M. Financial Ltd. (earlier known as J.M. Financial Institutional Securities Ltd.) against denial of credit of certain input services.

2. Learned Counsel for the appellant pointed out that CENVAT Credit has been denied on certain input services namely, Tours & Travels/domestic and International Air Travel,

Rent a Can Scheme operation service, Insurance/Group Insurance, Visa Charges and Hotel and other expenses. He argued that all the services used are covered by the definition of input service and therefore credit is admissible. He pointed out that in respect of Rent a Cab Operator Scheme and Insurant/Group Insurance, which was excluded from main clause, the appellant have themselves not availed any CENVAT Credit from 2011-12 onwards. He pointed out that they had submitted all the documents before the original adjudicating authority to establish nexus between the services availed and the services provided by them as has been recorded in para 9 of the impugned order. However, in para 11 of the same order, the benefit has been disallowed holding that appellants have not given any documentary evidence to establish nexus between output service and the input services. He further pointed out that credit in respect of identical services has been allowed in their own case vide Order No. A/91539/2017 dated 13.12.2017.

3. Learned AR relies on the impugned order.

4. I have gone through the rival submissions. I find that credit on these services is sought to be denied holding that the appellant has failed to establish the nexus between the input services and the output service. The Order-in-Original holds that the appellant has not given any documentary evidence of such nexus, however, the impugned order itself in para 9 recorded that the appellant had submitted detail documentary evidence. However, I do not find any examination of the said documentary evidence by the Commissioner (Appeals) in the impugned order.

Moreover, so far as admissibility of the credit is concerned, the same has been decided by the Tribunal in the appellant's own case in respect of these services.

5. In view of the above, the impugned order is set aside and matter is remanded to original adjudicating authority to specifically examine the nexus on the basis of documents submitted by the appellant before him and any other document that may be required. The appeal is allowed by way of remand to the original adjudicating authority in the above terms.

(Pronounced in Court on 24.08.2018)

(Raju)
Member (Technical)

Sinha