

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

APPEAL NO: ST/87825/2014

[Arising out of Order-in-Original No: 24/ST/RN/Idea/MII/13-14 dated 24th February 2014 passed by the Commissioner of Central Excise, Mumbai – II.]

For approval and signature:

**Hon’ble Shri C J Mathew, Member (Technical)
Hon’ble Shri Ajay Sharma, Member (Judicial)**

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? : Yes
 2. Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : Yes
 3. Whether Their Lordships wish to see the fair copy of the Order? : Seen
 4. Whether Order is to be circulated to the Departmental authorities? : Yes
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Idea Cellular Ltd

... Appellant

versus

Commissioner of Central Excise
Mumbai – II

...Respondent

Appearance:

Shri SS Gupta with Shri Mehul Jinani, Chartered Accountants for appellant

Shri M K Sarangi, Joint Commissioner (AR) and Shri MP Damle, Assistant Commissioner (AR) for respondent

CORAM:**Hon'ble Shri C J Mathew, Member (Technical)****Hon'ble Shri Ajay Sharma, Member (Judicial)****Date of hearing: 17/12/2018****Date of decision: 27/02/2019****ORDER NO: A/85395 / 2019**Per: C J Mathew

This appeal lies against order-in-original no. 24/ST/RN/Idea/MII/13-14 dated 24th February 2014 of Commissioner of Central Excise, Mumbai – II and pertains to the entitlement to CENVAT credit of tax paid on ‘rent-a-cab service’, ‘club and association service’ and ‘insurance service’ that had been availed between 2008-09 and 2011-12.

2. We have heard Learned Chartered Accountant who contends that ‘rent-a-cab service’ pertained to the period prior to 2011 and the amount denied in the impugned order should have been allowed in the same manner as for the previous periods. He relies upon the decision of the Tribunal in *Aditya Birla Retail Ltd v. Commissioner of Central Excise, Nashik* [2015 (39) STR 303 (Tri.-Mumbai)]. In relation to availment of ‘insurance service’, it is the contention of Learned Chartered Accountant that the adjudicating authority had erred in describing their claim arising from the insurance of the employees,

after segregating that attributable to coverage of the employees, as extending beyond that pertaining to workforce was not acceptable. Reliance is placed on the decision of the Tribunal in *PTC Software (India) Pvt Ltd v. Commissioner of Central Excise, Pune – II* [2014 (35) STR 632 (Tri.Mumbai)] and the decision of the Hon'ble High Court of Karnataka in *Commissioner of Central Excise, Bangalore – II v. Millipore India Pvt Ltd* [2012 (26) STR 514 (Kar.)].

3. As far as 'club and association service' is concerned, it is his contention that the appellant had derived the benefits of increase in market share from utilization of such service.

4. We have heard Learned Authorised Representative.

5. On the availment of credit of tax paid on 'club and association service', we find no new grounds other than that taken up during the adjudication proceedings. The adjudicating authority has concluded, and rightly so, that the utilization of that service could hardly be said to have been related to the business of rendering service.

6. On the availment of credit of tax paid on 'insurance service', the appellant appears to have submitted the segregation of the premium attributable to the employees and to their families. In the light of the decision cited by the Learned Chartered Accountant, the conclusion arrived at in the impugned order may require a fresh

ascertainment. Likewise, the contention that the payments made for ‘rent-a-cab service’ pertain to the period prior to the amendment in the definition of ‘inputs’ under CENVAT Credit Rules, 2004 has not been considered by the original authority. This is particularly relevant as the appellant had made a submission that the CENVAT credit had not been availed on the said service at any time after the amendment.

7. In the light of the above, the eligibility for CENVAT credit to the extent these were denied in the impugned order requires reconsideration. To enable this to be done, we set aside the demand in the impugned order pertaining to these two services viz. ‘insurance service’ and ‘rent-a-cab service’, and remand the matter back to the original authority for fresh decision.

8. Appeal is thus partly allowed.

(Pronounced in Court on 27/02/2019)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)