CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.1

Appeal No.E/2190/2018

[Arising out of Order-in-Original No.18/br-18/Th-I/2010, dt.22.03.2010, passed by the CCE Thane-I, Mumbai]

M/s VE Commercial Vehicles Ltd ......**Appellant**
S.V. Road, Chitalsar Manpada,
Thane 400 607 (Maharashtra)

VERSUS

Commissioner of C.Ex., Thane-I ......**Respondent**
4th Floor, Navprabhat Chambers, Ranade Road,
Dadar (West),
Mumbai 400 028

Appearance:
Shri Rajesh Ostwal, Advocate for the Appellant
Shri Sanjay Hasija, Supdtt. (AR) for the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR. SANJEEV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.A/88420/2018

Date of Hearing: 30.11.2018
Date of Decision: 30.11.2018

PER: D.M. MISRA

This appeal is filed against Order-in-Original No.18/br-18/Th-I/2010, dt.22.03.2010, passed by the CCE Thane-I, Mumbai.

2. Briefly stated the facts of the case are that the Appellants are engaged in the manufacture of Motor Vehicle Parts and Gear Boxes

falling under Chapter 87 and 84 of Central Excise Tariff Act, 1985. During the period 01.04.2005 to 31.08.2009, they had availed CENVAT Credit of Rs.80,41,507/- on various input services viz. Export Handling Charges, Bank Charges, Brokerage charges, Garden Maintenance Charges, Courier Services, Insurance Services, Car Hire Charges, Travel Services, Fire Services, Pest Control Services, Crane Hire Charges, Canteen Services, Erection & Commissioning Charges, Freight Charges, Mobile Phone etc. Alleging that the said services do not satisfy the definition of 'input service' as laid down under Rule 2 (*l*) of CENVAT Credit Rules, 2004, show cause notice was issued to them for recovery of the same on 11.12.2009 with interest and penalty. On adjudication, the demand was confirmed with interest and penalty. Hence, the present appeal.

3. At the outset, the learned Advocate for the Appellant submits that as far as credit availed on service tax paid on outward freight charges are concerned, the Appellant does not dispute its admissibility for the period post 01.04.2008 in view of the judgment of Hon'ble Supreme Court in the case of CCE & ST Vs Ultratech Cement Ltd – 2108-TIOL-42-SC-CX. With regard to the CENVAT Credit on other input services, the learned Advocate submits that in view of the settled principle of law, the credit is admissible. In support, he has referred to the following case-laws, where under the respective services are held to be input services and service tax paid on such services is held to be admissible to CENVAT Credit.

SN	Activity/Service	Case-law
1	Bank Charges and other financial service	Meghmani Dyes & Intermediates Ltd Vs CCE – 2013 (32) STR 671 (T)
2	CHA service	CCE Vs Apar Industries Ltd – 2016 (45) STR 71 (T)
3	Courier Service	Munjal Kiriu Industries Ltd Vs CCE – 2017 (5) GSTL 297 (T)
4	Tour Operator service	CCE Vs Hyderabad Industries Ltd Vs 2010 (20) STR 704 (T)
5	Telephone Expenses	India Cements Ltd Vs CCE – 2016 (44) STR 124 (T)
6	Statutory Auditor Service	Sai Life Sciences Ltd Vs CCE, C & ST – 2017 (51) STR 55 (T)
7	Advocate Service	Hydus Technologies India Pvt. Ltd Vs CCE, C & ST – 2017 (52) STR 186 (T)
8	Consultancy Service	CCE Vs Sanmar Speciality Chemicals Ltd – 2016 (43) STR 347 (Kar.)
9	Canteen Service	CCE Vs Tata Steel Ltd – 2015 (39) STR 402 (Kar.)
10	Vehicle Hire Charges	CCE Vs Transpek Industry Ltd – 2018 (12) GSTL 29 (Guj.)
11	Security Service	Bharat Heavy Electricals Ltd Vs CCE – 2016 (45) STR 426
12	Travel Service	Health India Medical Services Pvt. Ltd Vs CST – 2016 (6) 280 TMI – CESTAT Mumbai
13	House Keeping Service	Vodafone Essar South Ltd Vs CCE – 2017 (51) STR 77 (T)
14	Rent Service	HCL Technologies Ltd Vs CCE – 2017 (48) STR 129 (T)

5. The learned A.R. reiterates the findings of the learned Commissioner (Appeals).

6. We find that in the impugned order learned Commissioner interpreting Rule 2 (*l*) of CENVAT Credit Rules, 2004 held that the services received by the Appellant claimed to be used in or in relation to manufacture of goods since having no nexus with the manufacturing activity, accordingly, do not fall under the scope of Rule 2 (*l*) of CENVAT Credit Rules, 2004. We find that the admissibility of CENVAT Credit against each of the aforesaid input

services has been considered by the judgements referred to by the learned Advocate and since the same are covered by the said decision, therefore, CENVAT Credit of service tax of these services are admissible to the Appellant. No contrary judgment has been placed by the Revenue. Consequently, the impugned order is set aside to the extent of denying credit of all the aforesaid input services except GTA (outward freight) service for the period after 01.04.2008.

7. Appeal is allowed to the extent as mentioned above.

(Operative part of the order pronounced in the open court)

(D.M. Misra)
Member (Judicial)

(Sanjeev Srivastava)
Member (Technical)

CBB