CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.1

Service Tax Appeal No.86078 of 2017

[Arising out of Order-in-Appeal No. OIA-MUM-SVTAX-002-APP-664 TO 666-16-17, dt.30.12.2016, passed by Commissioner of Service Tax-IV Mumbai]

Deutsche CIB Centre P. Ltd **......Appellant**
3rd Floor, Block B-7, Nirlon Knowledge Park,
Western Express Highway, Goregaon (East),
Mumbai 400 063

VERSUS

Commr. of S.Tax–II Mumbai **......Respondent**
3rd Floor, Utpad Shulk Bhavan, Plot No.C-24, Sector-E,
Bandra Kurla Complex, Bandra (East), Mumbai 400 051

WITH

SN	Appeal No.	Appellant	Respondent	Arising out of
1	ST/86347/2017	Deutsche CIB Centre P. Ltd	CST-II Mumbai	OIA No. MUM-SVTAX-002-APP-664 to 666-16-17, dt.30.12.2016 passed by CST (A), Mumbai
2	ST/86348/2017	Deutsche CIB Centre P. Ltd	CST-II Mumbai	-do-
3	ST/87062/2017	Deutsche CIB Centre P. Ltd	CST-IV Mumbai	-do-
4	ST/87265/2018	Deutsche CIB Centre P. Ltd	CST-V Mumbai	-do-
5	ST/87997/2018	Deutsche CIB Centre P. Ltd	CST-Mumbai(E)	OIA No. PK/288-299/ ME/2018, dt.27.03.2018 passed by CST (A), Mumbai
6	ST/88006/2018	Deutsche CIB Centre P. Ltd	CST-Mumbai(E)	-do-
7	ST/88007/2018	Deutsche CIB Centre P. Ltd	CST-Mumbai(E)	-do-
8	ST/88008/2018	Deutsche CIB Centre P. Ltd	CST-Mumbai(E)	-do-
9	ST/88009/2018	Deutsche CIB Centre P. Ltd	CST-Mumbai(E)	-do-
10	ST/88010/2018	Deutsche CIB Centre P. Ltd	CST-Mumbai(E)	-do-
11	ST/88053/2018	Deutsche CIB Centre P. Ltd	CST-Mumbai(E)	-do-
12	ST/88054/2018	Deutsche CIB Centre P. Ltd	CST-Mumbai(E)	-do-
13	ST/88068/2018	Deutsche CIB Centre P. Ltd	CST-Mumbai(E)	-do-
14	ST/88124/2018	Deutsche CIB Centre P. Ltd	CST-Mumbai(E)	-do-
15	ST/88464/2018	Deutsche CIB Centre P. Ltd	CST-Mumbai(E)	OIA No. PK/ 361/ME/ 2018 dt.24.4.2018, passed by CST (A), Mumbai

Appearance:
Ms. Rashmi Deshpande, Advocate for the Appellant
Shri S.K. Hattangadi, AC (AR) for the Respondent

CORAM:
HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

FINAL ORDER NO.A/86290-86305/2019

Date of Hearing: 23.07.2019
Date of Decision: 23.07.2019

PER: D.M. MISRA

These appeals filed against respective Orders-in-Appeals since involve common issues, are taken up together for hearing and disposal.

2. Briefly stated the facts of the case are that the Appellants are engaged in providing services under the taxable categories of Business Auxiliary Service, On Line Information & Data Service, Business Support Service, Management Consultant Service, etc. The Appellants have availed CENVAT Credit on various inputs which have been used for providing the taxable output services. Due to export of the output services, they filed cash refund claims from time to time of the accumulated credit under Rule 5 of CENVAT Credit Rules, 2004. Mainly alleging that the input service on which credit availed by the Appellant since do not have nexus with the output services provided, therefore, cash refund claims of the accumulated credit are not admissible to the Appellant, accordingly rejected. Aggrieved by the said order, they filed appeals before the Commissioner (Appeals), who in turn, partly allowed their appeals allowing the credit on certain input service and remanded the matter to the adjudicating authority for verification of documents not produced in support of their claim. Hence, the present appeals.

3. The learned Advocate for the Appellant submits that they have availed credit on the disputed services viz. Business Support Service, Management, Maintenance & Repair, Event Management & Mandap Keeper's service, Accommodation Service, Business Support Consultancy, Works Contract, Courier Service, Copyright Services, General Insurance, Real Estate Agent Services, Facility Management Services, Renting Immovable Property, Management or Business Consultant's Fee, Architect & Interior Design services, Manpower Recruitment or Supply Agency's services, Outdoor Catering Services, Customs House Agents, Scientific, Technical testing and analysis, Erection, commissioning or installation services, Legal Consultancy services, Consulting Engineer services, Supply of tangible goods, Cargo handling services, Chartered Accountant services, Company Secretaries services, Commercial training services, Advertisement services, Storage and warehousing, Banking and financial services, Security services, Cleaning activity, on which the denial of credit has been upheld by the Appellant. The Ld. Advocates has submitted the detailed use of the said input services in providing the output services in tabular for and contended that these service are held to be admissible to credit by the various judgments viz. B.A. Continuum Pvt. Ltd Vs CST Mumbai-II - 2017-VIL-617-CESTAT-MUMBAI-ST, DBOI Global Services Pvt. Ltd Vs CST Mumbai – 2016-VIL-818-CESTAT-MUM-ST, Manhattan Associates (I) Dev. Centre Pvt. Ltd Vs CST Bangalore - 2017 (5) GSTL 99 (Tri-Bang), Alliance Global Service IT India (P) Ltd Vs CCE Hyderabad-IV – 2016 (44) STR 113 (Tri-Hyd), Willis Processing Services (India) Pvt. Ltd Vs CST Mumbai-II – 2016 (1) TMI 1130-CESTAT Mumbai, CST Mumbai-II Vs

MMS Maritime (India) Pvt. Ltd – 2106 (41) STR 896 (Tri-Mumbai), Sai Life Sciences Ltd Vs CCE Hyderabad-IV – 2017 (51) STR 55 (Tri-Hyd), Coca Cola India Pvt. Ltd Vs CCE Pune-III – 2010 (15) STR 657 (Bom), Anglo French Drugs & Industries Ltd Vs CCE Bangalore-II - 2017 (3) GSTL 147 (Tri-Bang.), KKR India Advisors Pvt. Ltd Vs Commr, CGST, Mumbai Central – 2018 (6) TMI–CESTAT-Mumbai, KPMG Vs CCE New Delhi – 2014 (33) STR 96 (Tri-Del), Marathon Electric India Pvt. Ltd Vs CCE Hyderabad-II – 2016 (45) STR 253 (Tri-Hyd), Apotex Research Pvt. Ltd Vs Commr – 2015 (3) TMI 346-CESTAT-BANGALORE, Garware Polyester Ltd Vs CCE Aurangabad – 2012 (26) STR 215 (Tri-Mum), Integra Software Services Pvt. Ltd Vs CCE Puducherry – 2017 (48) STR 137 (Tri-Chennai), Hydus Technologies India Pvt. Ltd Vs CCE Hyderabad-II, Delphi Automotive Systems Pvt. Ltd Vs CST Bangalore – 2015 (37) STR 522 (Tri-Bang), Megma Design Automation (I) Pvt. Ltd – 2015 (40) STR 800 (Tri-Bang.), CST Bangalore Vs Jubilant Biosys Ltd – 2016 (42) STR 729 (Tri-Bang.), Electronic Arts Games India Pvt. Ltd Vs CCE Hyderabad – 2017 (3) GSTL 149 (Tri-Hyd.), Panega 3 Legal Database Systems Pvt. Ltd Vs CCE Noida – 2016 (45) STR 76 (Tri-All.), J.P.Morgan Services (I) Ltd – 2016 (42) STR 196 (Tri-Mum).

4. It is her contention that the above services are since used for providing the output services, hence having nexus with the output services; as held in the above judgments. Accordingly, CENVAT Credit availed on these input services are admissible. The learned Advocate further submitted that while accepting their contention that credit on input invoices were wrongly denied by the Adjudicating authority on the ground that the same were addressed

to their old registered office address, which has been later amended in their centralized Registration, the learned Commissioner(appeals), however, remanded the matter to the Adjudicating authority. He submitted there is contradiction in the order of the learned Commissioner (Appeals) on the said issue.

5. The learned A.R. for the Revenue after examining the list of services provided by the Appellant has submitted that the credit availed on input services viz. Phonographic Performance, Testing of Food & Water Sample for Canteen, Video Projection Agency Service, Rent-a-cab Service for the period after 01.04.2011 are not admissible since these services have no nexus in providing the output service. With regard to other services he could not place any contrary facts or case laws.

6. In her rejoinder, the learned Advocate for the Appellant has agreed to reverse the credit availed on these input services.

7. Heard both sides and perused the records. The short issue involved in the present appeals for consideration is whether the service tax paid on various input services mentioned above are admissible to CENVAT Credit during the relevant period. The learned Advocate for the Appellant has referred to various judgments under which the respective 'input services' are held to be admissible to credit since satisfy the definition of input service as prescribed under Rule 2(l) of CENVAT Credit Rules, 2004, except the service viz. Phonographic Performance, Testing of Food & Water Sample for Canteen, Video Projection Agency Service, Rent-a-cab Service.

Following the aforesaid precedents, I have no hesitation to conclude that the service tax paid on aforesaid input services are admissible to CENVAT Credit and consequently eligible to refund of accumulated CENVAT Credit due to export of the services, except the services viz. Phonographic Performance, Testing of Food & Water Sample for Canteen, Video Projection Agency Service, Rent-a-cab Service. On the issue of denial of credit on input service invoices which are addressed earlier to their old registered office, the learned Commissioner (Appeals) has held that credit cannot be denied merely because there has been change in the address, but proceeded further in remanding the matter to the Adjudicating authority. I do not find any reason in remanding the matter to the Adjudicating authority once the learned Commissioner (Appeals) holds a view that mere change in the address would not dis-entitle the Appellant in availing the credit. Hence, remanding the matter, in my view is not necessary in the present case.

8. The impugned orders are modified accordingly and appeals are allowed to the extent mentioned as above. Appeals are partly allowed.

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

(D.M. Misra)
Member (Judicial)

Bahalkar