CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.1

Service Tax Appeal No.87420 of 2018

[Arising out of Order-in-Appeal No.MUM-DGPM-WRU/APP-23/17-18, dt.15.03.2018, passed by the Principal Additional Director General, DGPM, WRU, Mumbai]

M/s TNET Services Pvt. Ltd **......Appellant**
Directiplex ACME-1 Tech. Park,
Next to Andheri Subway, Old Nagardas Road,
Andheri (East), Mumbai 400 019

VERSUS

CC, GST, Mumbai (East) **......Respondent**
9th Floor, Lotus, Parel, Lotus Infocentre,
Near Parel Station, Parel (East), Mumbai

Appearance:
Shri Mihir Deshmukh, 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/86317/2019

Date of Hearing: 26.07.2019
Date of Decision: 26.07.2019

PER: D.M. MISRA

This appeal is filed against Order-in-Appeal No.MUM-DGPM-WRU/APP-23/17-18, dt.15.03.2018, passed by the Principal Additional Director General, DGPM, WRU, Mumbai.

2. Briefly stated the facts of the case are that the Appellants are engaged in providing taxable services during the relevant period. The Appellants have filed cash refund claims of the accumulated credit on export of out put service under Rule 5 of CENVAT Credit

Rules, 2004. Alleging that the input service on which credit availed since have no nexus with the output service, therefore, the refund claims were held to be inadmissible to the Appellant, and consequently rejected. Aggrieved by the said order, they filed appeals before Commissioner (Appeals), who in turn, rejected their appeals. Hence, the present appeals.

3. The learned Advocate for the Appellant submits that they have availed credit on the services viz. Hotel Accommodation, Travel Expenses, Repair & Maintenance, House Keeping Services which are used for providing out put service and held to be admissible by the various judgments viz. Casex Technologies Ltd – 2016-TIOL-2098-CESTAT-DEL, WNS Global Services – 2016 (44) STR 454 (Tri-Mum), Semco Electrical Pvt. Ltd – 2010 (18) STR 577 (Bom). On the issue of denial of credit on the incorrect invoice, they had submitted the corrected copy of the input invoice issued by the service provider indicating the fees and the service tax amount paid. It is further submitted that it is a bonafied mistake, hence, the credit is admissible .

4. The learned A.R. for the Revenue reiterated the finding of the Ld. Commissioner(Appeals).

5. 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 narrated 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, 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. Since, the Appellant has place the corrected copy of the invoices and explained the mistake, which appears to be bonafide, hence credit cannot be denied on the said invoices

6. In the result, the impugned order is set aside and the appeal is allowed.

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

(D.M. Misra)
Member (Judicial)

Bahalkar