CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.1

Service Tax Appeal No.88176 of 2018

[Arising out of Order-in- Appeal No.MUM/DGPM/WRU/APP-130/17-18, dt.24.04.2018, passed by the Principal Addl.Director General, DGPM, WRU, Mumbai.]

M/s Verdantis Technologies Pvt. Ltd ......**Appellant**
3rd Floor, Brillanto House, Radius 61, Road No.13,
Marol MIDC Industrial Area,
Andheri (East), Mumbai 400 093

VERSUS

Principal Additional Director General, ...**Respondent**
Directorate General of Performance Management,
Customs, & Central Tax, West Regional Unit,
4th Floor, Transport House, Poona Street,
Masjid (East), Mumbai 400 009

Appearance:
For the Appellant: Shri Sachin Chitnis, Advocate
For the Respondent: Shri S.K. Hattangadi, AC (AR)

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

FINAL ORDER NO.A/86320/2019

Date of Hearing: 24.07.2019
Date of Decision: 24.07.2019

PER: D.M. MISRA

This appeal is filed against Order-in- Appeal No.MUM/DGPM/WRU/APP-130/17-18, dt.24.04.2018, passed by the Principal Addl. Director General, DGPM, WRU, Mumbai

2. Briefly stated the facts of the case are that the Appellants are engaged in the export of services viz. Information Technology Software Service during the relevant period i.e. from April 2014 to March 2015. They have filed from time to time quarterly refund

claim of accumulated CENVAT Credit availed on input services used in providing taxable output services. On scrutiny of the refund claim, the Adjudicating authority has sanctioned an amount of Rs.2,12,633/- and rejected the refund amount of Rs.11,25,943/-. Aggrieved by the said order, they filed an appeal before the learned Commissioner (Appeals), who in turn, rejected their appeal. Hence, the present appeal.

3. At the outset, the learned Advocate for the Appellant Shri Sachin Chitnis has submitted that all these input services have been received and used by the Appellant in providing the output services. There is no dispute of the fact of receipt and use of input services in providing output services which has been exported during the relevant period. The only reason for rejecting their refund claim was that the address shown in the input service invoices is B-507/508, Floral Deck Plaza, Opp. SEEPZ Gate No.1, Andheri (East), Mumbai 400 093, which was not registered. It is his contention that the services have been provided from the premises which was though unregistered, but tax liability of the services rendered from the said unregistered premises was also discharged by raising invoices from the registered office premises. In support of the fact that the unregistered premises belongs to them, they placed a rent agreement of the said premises. Further, he has referred to various judgments of this Tribunal viz. CST Vs J.P. Morgan Services India Pvt. Ltd – 2015-TIOL-226-CESTAT-Mum, M/s Allspheres Entertainment Pvt. Ltd Vs CCE Meerut – 2015 (8) TMI-953 (CESTAT Delhi), wherein credit in similar circumstances has been held to be admissible.

4. The learned A.R. for the Revenue reiterates the findings of the learned Commissioner (Appeals).

5. I have carefully considered the submissions advanced by both sides and perused the records. The limited issue involved in the present appeal for determination is whether the Appellants are entitled to CENVAT Credit against the input invoices which are addressed to their unit, a premise which is not registered. The learned Commissioner (Appeals), in his order, has observed that the Appellants, otherwise, has complied with the conditions of Rule 6A of Service Tax Rules, so as to be eligible for refund of the amount of accumulated CENVAT Credit. He denied the refund only on the ground that the premises where the services have been used was not registered, but the registration was in the name of their head office. I do not find any merit in the objection of the Revenue as the principle of law in this regard is well settled in above mentioned cases. Merely because the premises is not registered from where the services are rendered and service tax is paid, CENVAT Credit cannot be denied on the input services used for providing output services from the said premises.

7. In the result, the impugned order is set aside and the appeal is allowed with consequential relief, if any, as per law.

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

(D.M. Misra)
Member (Judicial)

Bahalkar