CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 85393 of 2019

(Arising out of Order-in-Appeal No. MKK /95/Appeals II/2018-19 dated 07.08.2018 passed by the Commissioner of Central Excise & Service Tax (Appeals), Raigad

M/s Microtrol Sterilisation Services Pvt. Ltd .... **Appellant**
Kirpalani Industires Estate
Saki Vihar Road, Andheri East
Mumbai-400072

Versus

Commissioner of CGST, Mumbai East .... **Respondent**
9th Floor,Lotus Infocentre
Parel East, Mumbai-400012

Appearance:

Shri P.K. Shetty, Advocate for the Appellant

Shri S.B. Mane, (AC) Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/85098 / 2020

Date of Hearing: 16.01.2020

Date of Decision: 16.01.2020

Per: Dr. D.M. Misra

Heard both sides.

2. This appeal is against the Order in Appeal No. MKK /95/Appeals II/2018-19 dated 07.08.2018 passed by the Commissioner of Central Excise (Appeals), Mumbai.

3. Briefly stated the facts of the case are that the appellants are engaged in providing taxable services during the relevant period. In providing taxable services, they have availed Cenvat credit on various input services; alleging that the input services on which credit availed by them do not satisfy the definition of “input Services” prescribed under Rule 2(l) of Cenvat Credit Rules,2004; Show Cause Notice was issued to them for recovery of credit availed during the period 2008-09 to 2012-13 with interest and penalty. On adjudication, the demand was confirmed with interest and penalty. The appellant filed an appeal before the Learned Commissioner(Appeals) who has partly allowed the appeal. Hence the present appeal.

4. Ld. Advocate Shri P.K. Shetty for the appellant submits that in their grounds of appeal even though they have disputed the admissibility of Cenvat Credit on various input services, however, as per the instructions of the appellant they have reversed credit with interest on many of these input services and now chose to contest the credit for Rs.1,22,673/- on professional charges and Rs.1619/- relating to travel expense incurred by the employees of the appellant. He submits that the professional charges are incurred in relation to providing of output services and in support, he has referred to the relevant input invoices enclosed with the paper book at pages 87 to 103. He submits that since the said input services has direct relation in providing output services, hence covered by the definition of Input Services prescribed under Rule 2(l)

of the Cenvat Credit Rules,2004. Further, he has submitted that the travel expenses relates to visit of the employees to various places in connection with sales and support services, hence covered by the definition of 'input services'. In support, he has referred judgement of this Tribunal in the case of Dr. Reddy's Lab Ltd V/s. Commissioner of Central Excise, Hyderabad.

5. Ld. AR for the Revenue reiterates the findings of the Ld. Commissioner (Appeals).

6. Heard both sides and perused the records.

7. I find that the issue relates to determination of CENVAT Credit on input services, namely 'professional charges' and 'travelling expenses'. The appellants have provided 'output services' i.e., Sterlisation of Pharma and Food products for which they charged consultancy fees on process development and other aspects relating to the management of company, namely labour law, legal opinion etc. I find that the issue of admissibility of credit on these services is covered by the judgement of Hon'ble High Court of Allahabad in the case of Commissioner of Central Excise V/s. HCL Technologies (2015 (37) S.T.R. 716 (ALL). Hence the said service is an input services within the scope of definition prescribed under Rule 2(l) of CCR ,2004 and credit availed on such Input Services is admissible. Regarding the travelling expenses incurred by the Appellant, I find that the same are in relation to sales promotion and post sales related activities undertaken by the

Appellant and also covered by the judgement of Dr. Reddy's Laboratory case.(Supra) Hence, credit on such input services is also admissible.

8. Ld. Advocate for the appellant submits that the credit in relation to several other input services availed post 1.4.2011 on a bonafide belief but later the appellant had reversed the credit with interest, hence penalty is not warranted. I find force in the contention of the learned advocate for the appellant. The impugned order is modified and the penalty imposed is set aside and the appeal is allowed to the extent mentioned as above.

(Dictated and pronounced in open court)

(Dr. D.M. Misra)
Member (Judicial)

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