CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH AT MUMBAI

REGIONAL BENCH - COURT NO. 02

Service Tax Appeal No. 87730 of 2018

(Arising out of Order-in-Appeal No. CD/TR(APPEALS)/ME/208/2017-18 dated 23.02.2018 passed by Commissioner of CGST and Central Excise, Thane Rural)

M/s ICICI Prudential Asset Management Co. Ltd. .....**Appellant**
2nd Floor, Block B-2, Nirlon Knowledge
Park, Western Express Highway,
Goregaon (East),
Mumbai-400063

VERSUS

Commissioner of C.G.ST., Mumbai East .....**Respondent**
9th Floor, Lotus, Parel, Lotus Infocentre,
Near Parel Station, Parel East,
Mumbai-400012

WITH

Service Tax Appeal No. 87757 of 2018

(Arising out of Order-in-Appeal No. CD/TR(APPEALS)/ME/224/2017-18 dated 23.02.2018 passed by Commissioner of CGST and Central Excise, Thane Rural)

M/s ICICI Prudential Asset Management Co. Ltd. .....**Appellant**
2nd Floor, Block B-2, Nirlon Knowledge
Park, Western Express Highway,
Goregaon (East),
Mumbai-400063

VERSUS

Commissioner of C.G.ST., Mumbai East .....**Respondent**
9th Floor, Lotus, Parel, Lotus Infocentre,
Near Parel Station, Parel East,
Mumbai-400012

AND

Service Tax Appeal No. 87784 of 2018

(Arising out of Order-in-Appeal No. CD/TR(APPEALS)/MC/213/2017-18 dated 23.02.2018 passed by Commissioner of CGST and Central Excise, Thane Rural)

M/s ICICI Prudential Asset Management Co. Ltd. .....**Appellant**
2nd Floor, Block B-2, Nirlon Knowledge Park, Western Express Highway,
Goregaon (East),
Mumbai-400063

VERSUS

Commissioner of C.G.ST., Mumbai East .....**Respondent**
9th Floor, Lotus, Parel, Lotus Infocentre,
Near Parel Station, Parel East,
Mumbai-400012

Appearance:

Shri Niren Sethia, C.A. for the Appellant
Shri Sudhir B. Mane, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

FINAL ORDER NO. A/87486-87488/2019

Date of Hearing: 22.11.2019
Date of Decision: 22.11.2019

Per: S.K. MOHANTY

The issue involved in all these appeals is identical and accordingly, the same are taken up for hearing together and a common order is being passed.

2. Briefly stated, the facts of the case are that the appellant is engaged *inter alia,* in the business of providing asset management services and portfolio management services to its client/customers. The appellant is registered with the service tax department under the taxable category of Banking & Financial services, Leased Circuit, Business Auxiliary Service, etc., defined under Section 65 (105) of Finance Act, 1994.

During the disputed period 2008-09 to 2014-15, the appellant had availed Cenvat credit in respect of various taxable services, considering the same as input services. However, during the course of audit, the department objected to the issue of availment of Cenvat credit on the ground that there is no nexus between the disputed services and the output services provided by the appellant. Further, department had also objected to the fact that credit taken is also not admissible inasmuch as such credit is not inconformity with the provisions contained in the Cenvat statute. Based on the audit report, the department initiated show cause proceedings against the appellant, seeking for disallowance of alleged irregularly availed Cenvat credit. The matter was adjudicated by the department, wherein the proposal made in the show cause notices were confirmed. On appeal against the adjudication orders, the learned Commissioner (Appeals) vide the impugned orders has upheld the adjudged demands confirmed on the appellant. Feeling aggrieved with the impugned orders, the appellant has preferred these appeals before the Tribunal.

3. The learned Consultant appearing for the appellant submits that the disputed services on which the appellant had availed Cenvat credit of service tax paid thereon are confirming to the definition of input service as per both un-amended as well as amended provisions of Rule 2(l)of the Cenvat Credit Rules, 2004. Thus, he submits that since the disputed services were used by the appellant for providing the taxable output service, the benefit of Cenvat credit should not be denied to the appellant. Insofar as demand on account of the procedural lapses such as taking of double credit, utilization of credit in the subsequent month in respect of the service tax liability for the preceding month, car hire charges, payment of arrears etc., he submits that there is no discrepancy in availment of the credit and to that effect, he has submitted the statement explaining the circumstances under which the credit was availed by the appellant and the eligibility for such credit under the Cenvat Statute.

4. On the other hand, the learned AR appearing for the Revenue reiterates the findings recorded in the impugned order. He further submits that in respect of certain disputed services, the appellant is not eligible for the Cenvat benefit inasmuch as those services are not specifically covered under the provisions of Rule 2(l) *ibid* for consideration as input services.

5. Heard both sides and examined the case records.

6. I find that the lower authorities have denied the Cenvat benefit on the taxable services viz. event management, convention, courier charges, agency commission, sponsorship service on the ground that those services have no nexus with the output service provided by the appellant. On perusal of the written submission together with the agreements provided by the learned Consultant for the appellant, I find that event management service is availed by the appellant for organising training for the distributors and the investors who are linked with the appellant in connection with the business activities. Since the appellant is mainly engaged in the business of asset management and portfolio management service, the event management service availed by the it for conducting training, meetings etc., will be considered as input service for the purpose of availment of the Cenvat benefit. Thus, I am of the view that the Cenvat demand amounting to Rs.56,41,656/- disallowed by the department cannot be sustained.

7. With regard to the convention service provided by the service providers to the appellant, I find that those services are in context with hotel accommodation of the employees, booking of the banquet hall, diwali celebration of employees and distributors, courier charges for sending diwali gifts etc. The said services availed on payment of service tax under the accounting head of convention service cannot be considered as input service under un-amended as well as the amended definition of input service contained in Rule 2(l) of the Cenvat

credit Rules, 2004. Thus, I am of the considered opinion that denial of Cenvat benefit in respect of convention and courier services is proper and justified, being not in conformity with the statutory provisions. Similarly, the appellant had also paid agency commission for purchase of tickets of IPL/movies for the agents and distributors. Such services also cannot be considered as input service for the purpose of availment of the Cenvat benefit. Thus, denial of Cenvat benefit amounting to Rs.1,19,618/- is also in conformity with the statutory provisions. With regard to sponsorship of study on IFA's, the said service was availed by the appellant for the purpose of conducting its business activities during the period 2008-09 to 2010-11. Such services being availed in connection with the activities of business, the benefit of Cenvat credit should be available under the definition of input service, effective up to 31.03.2011. Thus, the credit on sponsorship service amounting to Rs.12,360/- should be available to the appellant.

8. I find that the department had denied the credit on the ground that the requirements of the Cenvat statute have not been complied with by the appellant. The allegations made by department, submissions of the appellant and findings of the Tribunal in context of these appeals are recorded herein below.

S.No.	Issue	Submissions of Appellant	Findings
1.	Invoices do not contain service tax number of the vendors	Service tax was availed by the appellant, through challan the service tax was paid under Reverse Charge Mechanism thus credit should be available. Wherever, the invoices did not contain the	Under the Reverse Charge Mechanism, challan is considered as legible document for availment Cenvat credit. Thus, denial of such benefit is not proper and justified. Since, the appellant

		service tax number, the appellant brought the certificate from the vendors rectifying the defects.	subsequently rectified the invoices issued by the vendors, as asserted, the matter is remanded to the original authority for verification of rectified invoices and thereafter, to consider the issue of extending the benefit of Cenvat credit.
2.	Availment of Cenvat credit twice on the same invoices	The appellant submits that credit has not been availed twice and credit availed by the appellant pretends to different agreements enter into between the appellant and the service providers.	I find that amount of service tax was paid by the service provider in respect of provision of different services. Thus, it cannot be said that the appellant had availed service tax benefit twice on the basis of the said invoices. Hence, denial of such benefit is not proper and justified.
3.	Cenvat credit for the subsequent month	The appellant had availed the Cenvat	If the Credit has been availed

	have been utilized towards payment of service tax liability of the preceding month.	credit after ensuring that the payment of servie tax amount has been made in favour of the service provider.	after the payment of service tax to the service provider, the same is inconformity with the Cenvat statute. However, I am of the view that such factual aspects have to be examined at the original stage. Accordingly, matter is remanded to the original authority for verification of the particulars with regard to the availment of credit subsequent to payment of service tax to the service provider.
4.	Cenvat credit availed on car hire charges.	The appellant submits that the entire credit has not been availed on account of car hire charges. Wherever, credit availed on car charges (2011-	Matter is remanded to the original authority to examine the definition of input service and invoices based on which

		12), such credit has been reversed by the appellant.	the credit was availed by the appellant. If, the narration provided in the invoice confirming to the definition of input service, the benefit of such credit should be extended.
5.	Cenvat credit availed on payment of arrears.	After payment of service tax the credit has been availed by the appellant and thus, the benefit of cenvat credit should be available.	There is substance in the submission of the appellant in support of the fact of payment of service tax. However, the original authority should examine the fact that the credit was availed after payment of service tax to the service provider.

8. The appeals are disposed of in above terms.

(Dictated and pronounced in the open court)

(S.K.Mohanty)
Member (Judicial)

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