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

REGIONAL BENCH - COURT NO. 01

Excise Appeal No. 89209 of 2018

(Arising out of Order-in-Appeal No. NGP-1/APPL/60/2018 dated 07.03.2018 passed by Commissioner of CGST & Central Excise, Nagpur)

M/s. Aurangabad Electricals Ltd. .....**Appellant**
Plant III, Gut No. 120/122, Paithan Road,
Village Pangra, Tq. Paithan,
Dist.-Aurangabad, Maharashtra

VERSUS

Commissioner of Central Excise & Service Tax, Aurangabad .....**Respondent**
N-5, Town Centre, CIDCO,
Aurangabad - 431030

Appearance:

Ms. Nidhi Nawal, Advocate for the Appellant
Shri N.N. Prabhudesai, Authorized Representative for the Respondent

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

FINAL ORDER NO. A/86862/2021

Date of Hearing: 22.09.2021
Date of Decision: 22.09.2021

Per: S.K. MOHANTY

Denial of Cenvat benefit in respect of service tax paid on employee compensation insurance service is the subject matter of present dispute. The period of dispute involved in this case is from May 2015 to April 2016. The learned Commissioner (Appeals) vide the impugned order dated 07.03.2018 has upheld the adjudication order and rejected the appeal filed by the appellant on the ground that Cenvat credit on the disputed service is not eligible to the assessee inasmuch as the said service cannot be considered as an input service w.e.f. 01.04.2011. Further, he has also held that the insurance service for the personal benefit of the employee is specifically excluded in the definition of input service as per Rule 2 (l) of the Cenvat Credit Rules, 2004.

2. The learned Advocate appearing for the appellant submitted that as per Section 38 of the Employee's State

Insurance Act, 1948, the appellant being a commercial establishment was statutorily required to insure its employees to protect from various mis-happenings. She further submitted that the insurance policy taken by the appellant is not for any individual employee, but is a group insurance policy, covering all the employees working in the factory. Learned Advocate further submitted that the issue involved in this case has been squarely covered by the judgment of Hon'ble Madras High Court in the case of Ganeshan Builders Limited Vs. CST, Chennai-II, 2017-TIOL-3152-CESTAT-MAD-ST and the decision of the Larger Bench of this Tribunal in the case of Dharti Dredging and Infrastructure Limited, reported in 2021-TIOL-223-CESTAT-HYD-LB.

3. On the other hand, the learned AR appearing for Revenue reiterated the findings recorded in the impugned order.

4. Heard both sides and perused the records.

5. The phrase 'input service' defined under Rule 2 (l) *ibid* has specifically excludes the life/health insurance taken by the employer for the personal use or consumption of any employee. In this case, it is not the case of Revenue that the insurance service was meant primarily for personal use by the employees. Rather, the insurance policy in this case was taken by the appellant in respect of its employees as per the statutory mandates provided under the Employee's State Insurance Act, 1948 and the Workmen's Compensation Act, 1923. The issue regarding entitlement of Cenvat credit in respect of employee compensation insurance service is no more *res integra* in view of the judicial pronouncements cited by the learned Advocate for the appellant. I find that the Larger Bench of this Tribunal in the case of Dharti Dredging and Infrastructure Limited (supra), by relying upon the judgment of Hon'ble Madras High Court in the case of Ganeshan Builders Limited (supra) has held that the intention of the insurance policy is to protect the employees who work at the site and not primarily for personal use or consumption of the employee and thus, the premium paid by the employer on such service should be considered as input service.

6. In view of the settled position of law, I do not find any merits in the impugned order passed by the learned Commissioner (Appeals). Therefore, by setting aside the said order, the appeal is allowed in favour of the appellant.

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

(S.K. Mohanty)
Member (Judicial)

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