

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, MUMBAI
REGIONAL BENCH
Single Member Bench**

Service Tax Appeal No. 85076 of 2020

(Arising out of Order-in-Appeal No. PVNS/127/Appeals Thane/TH/2019-20 dated 26.08.2019 passed by the Commissioner of CGST & Central Excise (Appeals), Thane)

M/s. Hapag-Lloyd Global Services Pvt. Ltd. **Appellant**
Unit No. 402 & 403, Dosti Pinnacle, Plot No. E-7,
Road No.22, Wagle Industrial Estate, Thane (W) 400 604.

Vs.

Dy. Commissioner of CGST & CE, Thane **Respondent**
Navprabhat Chambers, Ranade Road,
Dadar (W), Mumbai 400 028.

WITH

Service Tax Appeal No. 85080 of 2020

(Arising out of Order-in-Appeal No. PVNS/126/Appeals Thane/TH/2019-20 dated 26.08.2019 passed by the Commissioner of CGST & Central Excise (Appeals), Thane)

M/s. Hapag-Lloyd Global Services Pvt. Ltd. **Appellant**
Unit No. 402 & 403, Dosti Pinnacle, Plot No. E-7,
Road No.22, Wagle Industrial Estate, Thane (W) 400 604.

Vs.

Dy. Commissioner of CGST & CE, Thane **Respondent**
Navprabhat Chambers, Ranade Road,
Dadar (W), Mumbai 400 028.

WITH

Service Tax Appeal No. 85081 of 2020

(Arising out of Order-in-Appeal No. PVNS/116/Appeals Thane/TH/2019-20 dated 20.09.2019 passed by the Commissioner of CGST & Central Excise (Appeals), Thane)

M/s. Hapag-Lloyd Global Services Pvt. Ltd. **Appellant**
Unit No. 402 & 403, Dosti Pinnacle, Plot No. E-7,
Road No.22, Wagle Industrial Estate, Thane (W) 400 604.

Vs.

Dy. Commissioner of CGST & CE, Thane **Respondent**
Navprabhat Chambers, Ranade Road,
Dadar (W), Mumbai 400 028.

AND

Service Tax Appeal No. 85082 of 2020

(Arising out of Order-in-Appeal No. PVNS/125/Appeals Thane/TH/2019-20 dated 26.08.2019 passed by the Commissioner of CGST & Central Excise (Appeals), Thane)

M/s. Hapag-Lloyd Global Services Pvt. Ltd.
Unit No. 402 & 403, Dosti Pinnacle, Plot No. E-7,
Road No.22, Wagle Industrial Estate, Thane (W) 400 604.

Appellant

Vs.

Dy. Commissioner of CGST & CE, Thane
Navprabhat Chambers, Ranade Road,
Dadar (W), Mumbai 400 028.

Respondent

Appearance:

Shri Ranjeet Mahtani, Advocate, for the Appellant
Shri Prabhakar Sharma, Superintendent, Authorised Representative for the Respondent

CORAM:

HON’BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

Date of Hearing: 20.01.2023
Date of Decision: 20.01.2023

FINAL ORDER NO. 85389-85392/2023

These appeals are filed by the appellant as detailed in the table below:-

Sr. No.	Appeal No.	Order-in-Appeal No. & date	Period of dispute
1.	ST/85082/2020	PVNS/125/APPEALS THANE/TH/2019-20 dated 26.08.2019	April 2016 to June 2016
2.	ST/85076/2020	PVNS/127/APPEALS THANE/TH/2019-20 dated 26.08.2019	July 2016 to Sept. 2016
3.	ST/85081/2020	PVNS/116/APPEALS THANE/TH/2019-20 dated 20.09.2019	October 2016 to December 2016
4.	ST/85080/2020	PVNS/126/APPEALS THANE/TH/2019-20 dated 26.08.2019	April 2017 to June 2017

1.2 By the impugned orders, Commissioner (Appeals) has modified the orders-in-original and partly allowed the appeals of the appellant.

1.3 Original authority has passed orders-in-original holding as follows:-

Order-in-Original No. R/153/PK/2018-19 dated 28.03.2019 (in appeal ST/85076/2020)

"ORDER

i) I sanction refund claim totally amounting to Rs. 1097192/- (Rupees Ten lakhs Ninety Seven thousand One hundred and Ninety two only) to M/s. Hapag Lloyd Global Services Pvt. Ltd as per provisions of Rule 5 of CENVAT Credit Rules, 2004 read with Notification No. 27/2012-CE (NT) dated 18.06.2012 as mentioned above.

ii) I reject refund claim totally amounting to Rs.907725/- (Rupees Nine lakh Seven thousand Seven hundred and Twenty five only) to M/s. Hapag Lloyd Global Services Pvt. Ltd for the above period and for the reasons mentioned above."

Order-in-Original No. R/151/PK/2018-19 dated 28.03.2019 (in appeal ST/85080/2020)

"ORDER

i) I sanction refund claim totally amounting to Rs. 1594907/- (Rupees Fifteen lakhs Eighty Nine thousand two hundred and seven only) to M/s. Hapag Lloyd Global Services Pvt. Ltd as per provisions of Rule 5 of CENVAT Credit Rules, 2004 read with Notification No. 27/2012-CE (NT) dated 18.06.2012.

ii) I reject refund claim totally amounting to its. 874340/- (Rupees Eighty lakh Seventy Four thousand Three hundred and forty only) to M/s. Hapag Lloyd Global Services Pvt. Ltd for the above period."

Order-in-Original No. R/149/PK/2018-19 dated 28.03.2019 (in appeal ST/85081/2020)

"ORDER

1) I sanction refund claim totally mounting to Rs. 1758709/- (Rupees Seventeen lakhs Fifty Eight thousand Seven hundred and Nine only) to M/s. Hapag Lloyd Global Services Pvt. Ltd as per provisions of Rule 5 of CENVAT Credit Rules, 2004 read with Notification No. 27/2012- (NT) dated 18.06.2012.

ii) I reject refund claim totally amounting to Rs. 673706/- (Rupees Six Seventy Three thousand Seven hundred and six only) to M/s. Hapag Lloyd Global Services Pvt. Ltd for the above period."

Order-in-Original No. R/152/PK/2018-19 dated 28.03.2019 (in appeal ST/85082/2020)

"ORDER

i) I sanction refund claim totally amounting to Rs. 1297202/- (Rupees Twelve lakhs Ninety Seven thousand two hundred and two only) to M/s. Hapag Lloyd Global Services Pvt. Ltd as per provisions of Rule 5 of CENVAT Credit Rules 2004 mad with Notification No. 27/2012-CE (NT) dated 18.06.2012 as mentioned above

ii) I reject refund claim totally amounting to Rs. 562446/- (Rupees Five lakh sixty two thousand four hundred and forty six only) to M/s. Hapag Lloyd Global Services Pvt. Ltd for the above period and for the reasons mentioned above."

2.1 Appellant has filed refund claims for the period April 2016 to June 2016, July 2016 to September 2016, October 2016 to December 2016, January 2017 to March 2017 and April 2017 to June 2017 under Rule 5 of the Cenvat Credit Rules, 2004. Original authority has modified the refund claims to the extent of the Cenvat credit availed in respect of following services:-

Business support services
Cleaning services/facility management
CA/Legal Consultants/Management consultant – Professional services
Renting of immovable property services
Security services
Telecommunication services
Passenger air travel services /Travel agent services
Accommodation service (hotel charges)

Management, maintenance and repair services
Courier services
Banking and other financial services
Business auxiliary services
Works contract services (RCM)
Online database access retrieval services

2.2 Commissioner (Appeals) has allowed the credit in respect of air travel services and travel agent services, accommodation services (hotel charges), management, maintenance and repair services, courier services, business auxiliary services, works contract services, manpower recruitment agency services.

2.3 Aggrieved appellant has filed these appeals.

3.1 I have heard Shri Ranjeet Mahtani, Advocate for the appellant and Shri Prabhakar Sharma, Superintendent, Authorised Representative for the Revenue.

3.2 Arguing for the appellant, learned counsel submits that:-

- The issue in respect of non-admissibility of Cenvat credit in their own case for the same period has been considered by the Tribunal and the Tribunal by its order has allowed the credit in respect of these services. Tribunal has allowed credit in respect of business travel services, security services, hotel stay charges/hotel accommodation/food related services. Hence these should be allowed.
- Further the Tribunal has constantly been taking the view that for the disallowance of the Cenvat credit, appropriate proceedings should have been initiated in terms of Rule 14 of Cenvat Credit Rules, 2004 and refund claim filed under Rule 5 should not have been modified for this reason.
- In the proceedings initiated under Rule 14 of Cenvat Credit Rules, the credit in respect of these services has been allowed as stated above. Accordingly disallowing the refund claim under Rule 5 of Cenvat Credit Rules would not be justified as has been held in the decisions as follows:-

- Cross Tab Marketing Services Pvt. Ltd. [2021 (55) GSTL 29 (Tri.-Mumbai)]
- BNP Paribas India Solution Pvt. Ltd. [2022 (58) GSTL 539 (Tri.-Mumbai)]
- Qualcomm India Pvt. Ltd. [2020 (43) GSTL 402 (Tri.-Hyd.)]
- Virtusa (India) Pvt. Ltd. [2020 (41) GSTL 516 (Tri.-Hyd.)]
- Warburg Pincus India Pvt. Ltd. [2018 (364) ELT 159 (Tri.-Mumbai)]
- Morgan Stanley Investment Mgmt. [2018 (363) ELT 1158 (Tri.-Mumbai)]

3.3 Learned AR reiterates the findings recorded in the impugned order.

4.1 I have considered the impugned order along with the submissions made in appeal and during the course of arguments.

4.2 It is well settled position in law that refund claim filed under Rule 5 of Cenvat Credit Rules could not have been modified for the reason that certain Cenvat credits are inadmissible to the appellant, for which proper proceedings need to have been initiated under Rule 14 of Cenvat Credit Rules. Reference is made to the following decisions as cited by the learned counsel for the appellant.

A. Cross Tab Marketing Services Pvt. Ltd. [2021 (55) GSTL 29 (Tri.-Mumbai)].

"4.1 I have considered the impugned order along with the submissions made in appeal and during the course of arguments.

4.2 Commissioner (Appeals) has vide the impugned order that held that CENVAT credit taken by the appellant on following services is inadmissible as they do not qualify as input services-

- *Air travel agent services (para 7.1)*
- *Banking and Financial Services (para 7.3)*
- *Cab Operator Services (para 7.5)*
- *Courier Services (para 7.7)*
- *Maintenance and Repair Services (para 7.10)*
- *Market Research Agency Service (para 7.11)*

4.3 Rule 5 of the CENVAT Credit Rules, 2004 was amended by the Notification No 18/2012 -CX (NT) dated 07.03.2012 to provide as under.

5. Refund of CENVAT Credit. -

(1) A manufacturer who clears a final product or an intermediate product for export without payment of duty under bond or letter of undertaking, or a service provider who provides an output service which is exported without payment of service tax, shall be allowed refund of CENVAT credit as determined by the following formula subject to procedure, safeguards, conditions and limitations, as may be specified by the Board by notification in the Official Gazette:

$$\text{Refund amount} = \frac{(\text{Export turnover of goods} + \text{Export turnover of services}) \times \text{Net CENVAT credit}}{\text{Total turnover}}$$

Where,-

(A) "Refund amount" means the maximum refund that is admissible;

(B) "Net CENVAT credit" means total CENVAT credit availed on inputs and input services by the manufacturer or the output service provider reduced by the amount reversed in terms of sub-rule (5C) of rule 3, during the relevant period;

(C) "Export turnover of goods" means the value of final products and intermediate products cleared during the relevant period and exported without payment of Central Excise duty under bond or letter of undertaking;

(D) "Export turnover of services" means the value of the export service calculated in the following manner, namely:-

Export turnover of services = payments received during the relevant period for export services + export services whose provision has been completed for which payment had been received in advance in any period prior to the relevant period – advances received for export services for which the provision of service has not been completed during the relevant period;

(E) "Total turnover" means sum total of the value of –

(a) all excisable goods cleared during the relevant period including exempted goods, dutiable goods and excisable goods exported;

(b) export turnover of services determined in terms of clause (D) of subrule (1) above and the value of all other services, during the relevant period; and

(c) all inputs removed as such under sub-rule (5) of rule 3 against an invoice, during the period for which the claim is filed.

(2) This rule shall apply to exports made on or after the 1st April, 2012: Provided that the refund may be claimed under this rule, as existing, prior to the commencement of the CENVAT Credit (Third Amendment) Rules, 2012, within a period of one year from such commencement: Provided further that no refund of credit shall be allowed if the manufacturer or provider of output service avails of drawback allowed under the Customs and Central Excise Duties and Service Tax Drawback Rules, 1995, or claims rebate of duty under the Central Excise Rules, 2002, in respect of such duty; or claims rebate of service tax under the Export of Services Rules, 2005 in respect of such tax.

Explanation 1.- For the purposes of this rule,-

(1) "export service" means a service which is provided as per the provisions of Export of Services Rules, 2005, whether the payment is received or not;

(2) "relevant period" means the period for which the claim is filed.

Explanation 2.-For the purposes of this rule, the value of services, shall be determined in the same manner as the value for the purposes of sub-rule (3) and (3A) of rule 6 is determined."

4.4 From the plain reading of the said rule it is evident that the amended rule 5, does not require establishment of any nexus between the input services and the exported services. The rule only provides that the admissible refund will be proportional to the ratio of export turnover of goods and services to the total turnover, during the period under consideration, of the Net CENVAT credit taken during that period. Undisputedly in the

refund proceedings under Rule 5 of CENVAT Credit Rules, 2004 as amended any such attempt whereby credit availed during the period under consideration is sought to be denied or varied, is not permissible. If the quantum of the Cenvat Credit is sought to be varied, by holding that certain services do not qualify as input services then the same could have been done by invoking the provisions of Rule 14 of the CENVAT Credit Rules, 2004. In my view the Commissioner (Appeal)/ Adjudicating Authority has misdirected himself by undertaking such exercise while adjudging the refund claim filed in terms of Rule 5. In the case of Accelya Kale Solutions Ltd. Vs. Commissioner of Central Goods Service Tax and Central Excise, Mumbai [2018-TIOL2452-CESTAT-MUM]. tribunal observed, as under:-

"3. Rule 5 of Cenvat Credit Rules, 2004, was substituted vide Notification No. 18/2012-CE (NT) dated 17.03.2012, with effect from 01.04.2012. The said substituted rule has prescribed the formula for claiming refund of service tax by the service provider. Under such amended rule in vogue, there is no requirement of satisfying the nexus between the input services and the output service provided by the service provider. Consequent upon substitution of the said Rule in the Union Budget – 2012, the Tax Research Unit (TRU) of CBEC vide letter dated 16.03.2012 has clarified as under:-

"F.1. Simplified scheme for refunds:

1. A simplified scheme for refunds is being introduced by substituting the entire Rule 5 of Cenvat Credit Rules, 2004. The new scheme does not require the kind of correlation that is needed at present between exports and input services used in such exports. Duties or taxes paid on any goods or services that qualify as inputs or input services will be entitled to be refunded in the ratio of the export turnover to total turnover."

4.5 Similar view has been expressed by the tribunal in case of TPG Capital India Pvt Ltd [Final Order No A/86651-86655/2019 dated 20.09.2019]. Tribunal has observed therein stating as follows:

"4. However, it is seen that no objection was raised by the revenue at the time of availing of credit. Rule 5 allows refund of

accumulated credit and at the time of grant of refund, the Revenue is not permitted to examine the availability of the CENVAT credit. Such an exercise was required to be adopted by the Revenue at the time of availment of credit, by way of initiation of separate proceedings. Having not done that, it is not permissible to raise the objection at the time of grant of refund in terms of the said rule. The reliance by the Learned Advocate to the Circular no. 120/01/2010-ST dated 19.01.2010 clarifying the issue that by observing that there cannot be different yardstick for establishing nexus for taking of credit and for refund of credit, is appropriate. Otherwise also, we find the issue stands decided by the many decisions of the Tribunal. One such reference can be made to the Tribunal decision in the case of Barclay Global Service Centre Pvt. Ltd.& Ors. V. Commissioner of Central Excise & Service tax, Noida [2019-TIOL-1714-CESTAT-ALL]. It stands held in the said decision that as no objection was raised by the Revenue at the time of availing the credit, such objection cannot be raised at the time of deciding the refund claim in terms of provision of Rule 5.”

4.6 In view of the discussions as above I am not in position to sustain the impugned order to the extent indicated. Since the Commissioner (Appeals) has by the impugned order held the refund to be admissible, to the extent of CENVAT Credit held admissible by him subject to verification of the documents by the original authority I modify his order to this extent i.e. that entire credit as claimed by the Appellant for determining the refund amount is held admissible if not held admissible in proper proceedings initiated under Rule 14 of the CENVAT Credit Rules, 2004.”

B. BNP Paribas India Solution Pvt. Ltd. [2022 (58) GSTL 539 (Tri.-Mumbai)]:-

"There is no dispute that the aforesaid decision of this Tribunal in appellants' own case covered both pre-and post-amendment period and also the services which are in issue herein. So far as the decision in the matter of Maersk Global (supra) is concerned, I am afraid that the Learned Authorised Representative is not correct in his submission that the said decision pertains to pre-amendment period. Similarly, while interpreting Rule 5 this

Tribunal in the matter of M/s. Cross Tab Marketing Service Pvt. Ltd. v. C.C. GST, Mumbai East; reported in 2021-VIL-466-CESTAT-MUM-ST = 2021 (55) G.S.T.L. 29 (Tri. - Mumbai) vide order dated 17-9-2021 held that the amended Rule 5 ibid does not require establishment of any nexus between input and export services. The rule only provides that the admissible refund will be proportional to the ratio of export turnover of goods and services to the total turnover, during the period under consideration and the net Cenvat credit taken during that period. Indisputably, in the refund proceedings under Rule 5 ibid as amended, any such attempt to deny or to vary the credit availed during the period under consideration is not permissible. If the quantum of the Cenvat credit is to be varied or to be denied on the ground that certain services do not qualify as input services or on the ground of 'no nexus', then the same could have been done only by taking recourse to Rule 14 ibid."

4.3 I also observe that in the case of appellant themselves, Commissioner (Appeal) has while deciding the issue in remand proceedings held as follows

A. Order in Appeal No DL/152/APPEALS THANE/TH/2020-21 dated 11.02.2021:

*"7.1 I further find that the Hon'ble CESTAT has remanded the case to the Adjudicating Authority to reconsider the claim by verifying documents and after analysis of cited judgements which are in respect of subject input services and to observe the nexus between input and output services. In this connection, I observe that the Appellant has submitted the relevant documents. On the basis of the cited judgements, **I find that the question of nexus of input-output service has no more been held res integra, as in the catena of judgements it has been decided that 'one to one' co-relation is not required between input services on which credit was availed vis-à-vis output services that are exported.** In this connection, I find that Rule 2(1) of the Cenvat Credit Rules, 2004 provides for the definition of "Input Service" which means any service,-*

(i) used by a provider of output service for providing an output service; or

(ii) used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products, up to the place of removal, and includes services used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage up to the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation up to the place of removal; but excludes,-

(A).....

(B)

(C) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee; *(emphasis supplied)*

*I find that the above mentioned definition does not require for one to one relation between Input and output services. However, the same should not be used primarily for personal use or consumption of any employee. This condition is a yardstick for taking credit of service tax. I find that in the case of Mediacom Media India Pvt. Ltd vs. CCG ST, Mumbai East reported vide 2019 (10) TMI 690 – (CESTAT Mumbai) it was also held that where input service had been debited to Profit and Loss Account of the exporter as a business expense, the Cenvat Credit should be eligible. I further find that in the **case M/s. 3D PLM Software Solutions Ltd V/s. Commissioner of S.T.,***

Mumbai-VII under 2018(13) G.S.T.L.325 (Tri. -Mumbai) it is specifically mentioned that:

"I find that the Appellant have sought refund of Cenvat credit availed by them. Part of the refund claim has been rejected alleging that the nexus between the input services and the export services has not been established. In this regard, the clarification issued by the C.B.E & C vide Circular, dated 19.01.2010 is relevant. Para 3.1.1 of the said Circular reads as follows :-

3.1.1 The primary objection indicated by the field formation is that the language of Notification No.5/2006-CE(NT) permits refund only for such services that are used in input services should be directly used in the output service exported. As regards the extent of nexus between the inputs/input services and the export goods/services, it must be borne in mind that the purpose is to refund the credit that has already been taken. There cannot be different yardsticks for establishing the nexus for taking of credit and for refund of credit. Even if different phrases are used under different rules of Cenvat Credit Rules, they have to be construed in a harmonious manner. To elaborate, the definition of input services for manufacturer of goods, as given in Rule 2(1)(ii) of Cenvat Credit Rules, 2004, includes within its ambit all services used "in or in relation to the manufacture of final products" and includes services used "directly or indirectly". Similarly Rule 2(1)(i) of Cenvat Credit Rules also gives wide scope to the input services for provider of output services by including in its ambit services used....for providing an output service". Similar is the case for inputs.'

In view of the above, it is clear that if availment of credit of the Service Tax has not been challenged, the nexus between input services and the export services cannot be challenged.

In view of the above, the impugned order is set aside and the appeal are allowed with consequential relief, if any."

Considering the above, I find that the above judgement explains that one to one nexus is not needed at all for taking credit of the same for such services which are not having one to one nexus i.e. input service to output service correlation and also not used for personal use by any employee.

7.2 In this regard, I also find support from the case of CCE, Bangalore Vs. Millipore India (P.) Ltd., reported vide [2011]16 taxmann.com363(Kar.), wherein the Hon'ble High court of Karnataka held that:

"7. That apart, the definition of input services is too broad. It is an inclusive definition. What is contained in the definition is only illustrative in nature. Activities relating to business and any services rendered in connection therewith, would form part of the input services. The medical benefit extended to the employees, insurance policy to cover the risk of accidents to the vehicle as well as the person, certainly would be a part of the salary paid to the employees. Landscaping of factory or garden certainly would fall within the concept of modernization, renovation, repair, etc., of the office premises. ... It is to discharge a statutory obligation, when the employer spends money to maintain their factory premises in an eco-friendly, manner, certainly, the tax paid on such services would form part of the costs of the final products. In those circumstances, the Tribunal was right in holding that the service tax paid in all these cases would fall within the input services and the assessee is entitled to the benefit thereof. In that view of the matter, we do not see any infirmity in the order passed by the Tribunal. Accordingly, the substantial questions of law framed in this appeal are answered in favour of the assessee and against the revenue. The appeal is dismissed." (emphasis supplied)

In view of the above, I find that the various input services described in para GG of the Grounds of Appeal submitted by the Appellant fulfill the condition of input services and thus the Appellant are eligible for taking credit of the same and utilize the credit for output services.

7.3 As regards certain invoices where name of the Appellant was not appearing, I find that the employees name with the

Appellant company name is mentioned on the invoices, hence the same cannot be construed for personal use and thus eligible for taking credit, as the same is used for business purposes. Further, for such invoices which are not having registered address of the Appellant, I find that these Invoices are accounted for in providing output services and payment has been made by the company, hence mere not mentioning the correct address cannot be a measure to dis-entitle the Appellant from claiming benefit under refund. Moreover, I find that the CBEC has vide Circular No. 120/01/2010-ST dated 19.01.2010, stipulated that:

3.4 Incomplete invoices:

In case of incomplete invoices, the department should take a liberal view in view of various judicial pronouncements by Courts. It had earlier been prescribed in circular No. 106/09/2008-ST dated 11.12.2008 that the invoices/challans/bills should be complete in all respect. This circular was issued with reference to notification No.41/2007 dated 06.10.2007 as specific services eligible for refund under the notification has been specified. Thus, a stricter requirement exists under the said notification for ascertaining the actual service which has been used in the export of goods. In the case of refund under Rule 5, (i) so far as the nature of the service which has been received by the exporter can be ascertained; (ii) tax paid therein is clearly mentioned; and (iii) other details as required under rule 4(a) are mentioned, the refund should be allowed if the input service has a nexus with the service/goods exported as discussed earlier. In any case, the suggested Chartered Accountant's certificate should clearly bring out the nature of the service and this will assist the officer in taking a decision.

Therefore, in view of the above directions in circular, I take a liberal view allow the input credit where registered address of the Appellant is not mentioned and hence, the credit thereof is eligible for refund.

7.4 In view of the ratio of the cited judgements and discussion above, I hold that the Service Tax credit to the extent of Rs.48,23,490/- is eligible to the Appellant as refund, since these services are not used primarily for personal use or consumption of any employee.”

B. Same view has been expressed by the Commissioner Appeal in subsequent order which are as follows:

Order in Appeal No DL/258 & 263/APPEALS THANE/TH/2021-22 dated 23.02.2022

4.4 The impugned order denying the refund claims made in terms of Rule 5, for the reason that input services had no nexus with the output services exported or for the reason that the credit cannot be held admissible for the reasons of deficiencies in the documents against which the same is claimed cannot be sustained.

5.1 Appeals allowed in favour of the appellant.

(Order pronounced in the open court)

(Sanjiv Srivastava)
Member (Technical)

tvu