

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, MUMBAI**

REGIONAL BENCH - COURT NO. I

SERVICE TAX APPEAL NO. 87490 OF 2019

(Arising out of Order-in-Appeal No. MKK/61/RGD/-APP/2019-20 dated 14.05.2019 passed by the Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigad)

M/s GTL Ltd.

Gobal Vision, Electronic Sadan-II,
MIDC, TTC Industrial Area, Mahape,
Ghansoli, Navi Mumbai – 400 701

.... Appellant

Versus

**Commissioner of Central Tax, Central
Excise & Service Tax, Belapur**

1st Floor, CGO Complex, CBD Belapur,
Navi Mumbai - 400614

.... Respondent

Appearance:

Shri Prashant V Patankar, Advocate for the Appellant

Shri S.B.P Sinha, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85545/2024

Date of Hearing: 02.02.2024

Date of Decision: 03.06.2024

Per: M.M. Parthiban

This appeal is directed against Order-in-Appeal No. MKK/61/RGD-APP/2019-20 dated 14.05.2019 passed by Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigad, Mumbai.

2. The relevant facts that arise for consideration in this case are that the appellant herein is a provider of output service and is registered with the jurisdictional Service tax authorities for providing services such as Business Auxiliary services, Business Support services, Consulting engineering services, Erection, Commission & Installation, Maintenance & Repair services, Works contract services, Renting of immovable property etc. under Section 65(105) of the Finance Act, 1994. The appellant is eligible to avail Cenvat credit of service tax paid on inputs, capital goods

and input services received by them for providing output services in terms of Cenvat Credit Rules, 2004 (CCR). During the course of audit of accounts of the appellant, the departmental officers have noticed that the Cenvat credit availed on various input services are not eligible as per the provisions of Rule 2(I) *ibid*. On coming to such a conclusion, show cause notices were issued for recovery of wrongly availed and utilized Cenvat credit under Section 73(1) of the Finance Act, 1994 read with Rule 14 of the Cenvat Credit Rules, 2004 along with applicable interest and for imposition of penalty under Rule 15(1) *ibid*. Initially, SCN dated 09.10.2015 was issued proposing for recovery of wrongly availed Cenvat credit on input services viz., Rent a Cab services, insurance services covered during the disputed period from 01.04.2010 to 31.03.2014 for an amount of Rs.3,06,91,923/-. Further, periodical demand cum SCN dated 04.02.2016 was issued for recovery of wrongly availed Cenvat credit on input services viz., Rent-a-Cab services for an amount of Rs.1,97,848/-, insurance-vehicle, group, travel, medical services for an amount of Rs. 13,38,885/- covering the disputed period from 01.04.2014 to 31.03.2015 for a total amount of Rs.15,36,733/-. In respect of the SCN dated 04.02.2016, the issue was adjudicated upon by the original authority in passing an Order-in-Original dated 31.03.2017, wherein he had disallowed the entire Cenvat credit amounting to Rs.15,36,733/- availed during the disputed period 01.04.2014 to 31.03.2015. Being aggrieved with the original order, the appellant had preferred an appeal before the Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigad, Mumbai, who had partially allowed the appeal filed by the appellant and partially rejected the appeal by upholding the order of the lower authority. Feeling not satisfied with the above Order-in-Appeal dated 14.05.2019, the appellant had preferred before this Tribunal.

3.1 Learned Consultant has submitted that the appellant is engaged in providing output service of maintaining various towers used by telecom operators. In providing such output service, the appellant has availed Cenvat credit paid on input services such as Rent-a-Cab services, insurance services. He further stated that Cenvat credit availed in respect of Rent-a-Cab services is not excluded under clause B of rule 2(I) of CCR, 2004, as the settled position of law is that this clause cannot be interpreted to exclude renting of motor vehicles for recipient of the said service. In this regard, he relied on the decision of the Tribunal in the

case of *Marvel Vinyls Ltd. Vs. CCE, Indore* – 2017 (49) S.T.R. 424 (Tri. Del.). He further submitted that the SCN proposed to deny Cenvat credit only on the ground that there was no Nexus between the output service and the input services of Rent-a-Cab service. Thus, he pleaded that the original order and the impugned order confirming the said order have traversed beyond the proposal in the SCN which is not permitted as held in various decisions of the Hon'ble Supreme Court. Therefore, he claimed that the impugned order is not sustainable.

3.2 Learned Consultant also submitted that the Cenvat credit availed in respect of insurance services is not excluded under clause C of rule 2(I) of CCR, 2004, as the same are used for the purpose of mandatory statutory requirement under the Employees State Insurance Act and being a Corporate Entity, they had to provide for insurance of employees for ensuring that the workforce is available for uninterrupted provision of output service to avoid loss of man-hours, disruption of business activity. He also stated for the Cenvat Credit taken by the appellant on *bona fide* belief as permitted under the law and its utilization for the provision of output service, but proposed for recovery due to the technical objection of the department, cannot be a ground for imposition of penalty.

3.3 Learned Consultant relied upon the following judgments in support of their stand :-

- (i) *Reliance Industries Ltd. Vs. Commissioner of C. Ex. & S.T., LTU, Mumbai* – 2016 (45) S.T.R. 383 (Tri.- Mumbai)
- (ii) *Reliance Industries Ltd. Vs. Commissioner of C. Ex. & S.T.(LTU), Mumbai* – 2015 (38) S.T.R. 217 (Tri.- Mumbai)
- (iii) *Commissioner of C. Ex. & Service Tax, (LTU), Bangalore Vs. Micro Labs Ltd.,* - 2011 (270) E.L.T. 156 (Kar.)
- (iv) *Commissioner of C. Ex., Bangalore-III Vs. Stanzen Toyotetsu India (P) Ltd.,* - 2011 (23) S.T.R. 444 (Kar.)
- (v) *Oceans Connect India Pvt. Ltd. Vs. Commissioner of C. Ex., Pune-III* – 2016 (46) S.T.R. 858 (Tri.- Mumbai)
- (vi) *Commissioner of C. Ex., Nagpur Vs. Ballarpur Industries Ltd.,* - 2007 (215) E.L.T.489 (S.C.)
- (vii) *Cement Marketing Co. of India Ltd., Vs. Assistant Commissioner of Sales Tax* – 1980 (6) E.L.T. 295 (S.C.)

4. Learned Authorised Representative (AR) appearing for the department, on the other hand, would submit that the definition of 'input services' under Rule 2(I) *ibid* has undergone a change, which needs to be

considered. He would draw my attention to the said notification and submit that prior to 01.04.2011, the definition clearly indicates that the same should be used in the manufacture of final product in the case of manufacturers and should be used in providing output services in the case of service provider. He would submit that post 02.04.2011, the definition & input service has undergone a change, which exclude various input services which are used for personal consumption and employees' consumption and such services which are excluded are, 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 such as Leave or Home Travel Concession. He would submit that Cenvat credit has been availed post 01.04.2011 on such services should be denied as they are for the personal consumption of the employees. He would rely upon the decision of the Tribunal in the case of *Solar Industries India Ltd. Vs. Commissioner of C. Ex. & Customs, Nagpur* in Final Order No. A/868102018 dated 23.05.2018, for the proposition put forth by him.

5. Heard both sides and perused the records of the case. I have examined the submissions advanced by the learned Consultant appearing for the appellant and the learned Authorized Representative of the Department. Further, I have also perused the additional written submissions in the form of paper books submitted by both sides along with citation of case laws which both sides have mentioned in support of their case.

6.1 The issue involved in these appeals is the eligibility to avail the Cenvat credit on various input services which were utilized by the appellants during the course of his business of providing output service of maintenance of various telecom towers, in order to ensure that such towers provide continuous telecom services. For the above purpose, the appellant received orders for supply of material such as steel products, D.G. sets, batteries etc., and for provision of services in maintaining the same. It is an undisputed fact of the case that central excise duty and service tax has been paid on the inputs and input services respectively. There is no dispute that the appellant is eligible to avail Cenvat credit. The dispute is relating to whether these services are used in or in relation to the provision of output service. The services which are in dispute are Rent-a-Cab Operator's service and the insurance service.

6.2 It can be seen from the factual matrix of the case that both the said services were utilized by the appellant during the course of activity of providing output service. For example, the technicians and the engineers who are required to visit the various locations in which the telecom towers are situated for providing output service of maintenance and repair, have to travel different locations, by carrying suitable spare parts, maintenance tools, replacement consumables, diesel for running DG sets etc. In all such situations, transportation of personnel employed for providing output services by the appellant, by using Rent-a-Cab Operator service for their movement are essential and are directly linked in providing output service. Further, providing insurance for the personnel employed in provision output services, where they handle machine, electrical operations etc. are required to be mandatory covered by insurance policy.

7.1 In order to address the above issue of eligibility to avail the Cenvat credit on various input services, we would like to refer the relevant legal provisions contained in Cenvat Credit Rules, 2004 as it existed during the disputed period in respect of the taxable service under dispute.

“Definitions.

2. In these rules, unless the context otherwise requires,—

(l) ‘input service’ means any service,—

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

*(ii) used by a 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 modernisation, 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 upto 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) service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act (hereinafter referred as specified services) in so far as they are used for-

(a) construction or execution of works contract of a building or a civil structure or a part thereof; or

(b) laying of foundation or making of structures for support of capital goods,

except for the provision of one or more of the specified services; or

(B) services provided by way of renting of a motor vehicle, in so far as they relate to a motor vehicle which is not a capital goods; or

(BA) *service of general insurance business, servicing, repair and maintenance , in so far as they relate to a motor vehicle which is not a capital goods, **except when** used by—*

(a) a manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person; or

(b) an insurance company in respect of a motor vehicle insured or reinsured by such person; or

(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.

Explanation.—For the purpose of this clause, sales promotion includes services by way of sale of dutiable goods on commission basis.”

7.2 On careful reading of the definition of ‘input service’ under Rule 2 (I) of CCR, 2004 as above, I find that it provides for three categories of services, out of which (i) ‘means’ part of the definition, generally cover services which are used directly or indirectly, in or in relation to manufacture of final goods or for providing of output services; and (ii) ‘inclusion’ part of the definition, specifically state certain services used in relation to various activities, which is used in relation to the manufacture of final products or provision of output services, both of which are covered under the scope of ‘input services’. Further, the third category, (iii) ‘exclusion’ part of the definition provided under Clauses (A), (B), (BA) and (C), specifically provide for certain services or portion of such services, which are not included in the above definition of ‘input service’. However, there are certain exceptions to this exclusion which are also given in the form of ‘except for provision of certain services’, ‘except when used by certain category of persons’, ‘when such services are not primarily used for specified use’ etc.

7.3 In order to examine whether a particular service is covered as ‘inputs service’, either it could be covered under category (i) or (ii) and should not fall under the exclusion category under (iii) above. I find that the adjudicating authority in the original order had found that Rent-a-Cab operator services is in the nature of ‘service provided by way of renting of a motor vehicle, as specified in clause (B) to Rule 2(I) of the CCR, 2004’ and thus he denied the Cenvat credit. The impugned order also denied the Cenvat credit on the ground that the motor vehicles used by the appellant are not their capital goods, and thus are squarely covered by Clause (B) of Rule 2(I) *ibid*. In this regard, I find that the exact wordings used in the Clause (B) has two limbs, one is that the ‘*services provided by way of*

renting of a motor vehicle' and the other second one is that *'in so far as they relate to a motor vehicle which is not a capital goods'*. The qualifying link to this exclusion is that the excluded services shall be *'used by a provider of output service for providing an output service'*. In the present case, it is clear that the appellant had availed the service of Rent-a-Cab operator service in relation to provision of output service, hence the link is fulfilled. Further, the Rent-a-Cab operator service is fully covered by the first limb of *'services provided by way of renting of a motor vehicle'*. However, when it comes to the second limb, it has to be seen whether the input service qualifies the requirement that, *'in so far as they relate to a motor vehicle which is not a capital goods'*. In this regard, I find that the term 'capital goods' has been defined for the purpose of Cenvat Credit Rules, 2004 under Rule 2(a) *ibid* which is extracted and given below:

“(a) “capital goods” means:—

(A) *the following goods, namely:—*

- (i) *all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, [heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 and wagons of sub-heading 860692 of the First Schedule to the Excise Tariff Act;*
- (ii) *pollution control equipment;*
- (iii) *components, spares and accessories of the goods specified at (i) and (ii);*
- (iv) *moulds and dies, jigs and fixtures;*
- (v) *refractories and refractory materials;*
- (vi) *tubes and pipes and fittings thereof;*
- (vii) *storage tank; and*
- (viii) *motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis but including dumpers and tipper,*

used—

- (1) *in the factory of the manufacturer of the final products; or*
- (1A) *outside the factory of the manufacturer of the final products for generation of electricity or for pumping of water for captive use within the factory; or*
- (2) *for providing output service,*
- (B) *motor vehicle designed for **transportation of goods** including their chassis registered in the name of the service provider, when used for—*
 - (i) *providing an output service of renting of such motor vehicle; or*
 - (ii) *transportation of inputs and capital goods used for providing an output service; or*
 - (iii) *providing an output service of courier agency;*
- (C) *motor vehicle designed to **carry passengers** including their chassis, registered in the name of the provider of service, when used for providing **output service of—***
 - (i) *transportation of **passengers**; or*
 - (ii) ***renting** of such motor vehicle; or*
 - (iii) *imparting **motor driving** skills;*
- (D) *components, spares and accessories of motor vehicles which are capital goods for the assessee;”*

7.4 The above definition of 'capital goods' provided for motor vehicles, under clause (A) excludes motor vehicles falling under tariff headings 8702,

8703 which covers under its scope (i) motor vehicles for the transport of 10 or more persons, including the driver (ii) motor cars and other vehicles principally designed for the transport of persons, including station wagons and racing cars. In the present case on perusal of the sample invoice indicating the input services availed on Rent-a-Cab operator service show that the type of motor vehicles used are main cars such as 'Volkswagen Vento car', 'Toyota Altis', 'Corolla Altis' etc. I find that the cars are classifiable under the tariff heading 87.02 if they can carry transport of 10 or more persons or under tariff heading 87.03 if they can carry transport of less than 10 persons. As these type of motor cars have been specifically excluded from the scope of coverage of motor vehicles under clause (viii) of the definition of 'capital goods' provided under Rule 2(a) *ibid*, I find that the second limb of this requirement that the motor vehicle should be a capital goods is unable to be fulfilled, and thus under clause (B) of Rule 2(I) *ibid*, the input services availed in respect of such motor vehicles is excluded from the scope of definition of 'input services' in the present case. In view of the above, the appellant is not eligible to avail Cenvat credit for an amount of Rs. 1,97,848/- in respect of Rent-a-Cab operator service as an input service. Further, I find that the decisions given by the Tribunal, in various case laws relied upon by the appellant, have been provided under different context, and inasmuch as the factual matrix of the present case is not exactly comparable to those cases, I am constrained in not taking the same for precedent value in determining this issue here.

8.1 As regards the Cenvat credit availed on input services in respect of insurance services, I find that to the extent that such services are not used primarily for personal use or for consumption of any employee, they would qualify as eligible 'input service' by being not specifically covered under the clause (C) of Rule 2(I) *ibid*. The sample invoices produced by the appellant indicate that these are for 'Corporate Fire and Allied Perils insurance' policy provided by the New India Assurance Co. Ltd., 'Group Protection Solution Plan' provided by Birla Sun Life Insurance, 'Workmen Compensation Policy' provided by the New India Assurance Co. Ltd., etc. As the insurance services as above are in the nature of services availed for providing output service in terms of ensuring that the office premises, personnel employed for providing output service are protected for providing continuous and uninterrupted service, these can be categorised as being in the nature of insurance service for personal use or consumption of employees. Thus, I

find that these services are not covered under the exclusion clause (C) of Rule 2(l) *ibid*.

8.2 I find that the dispute in respect of availment of Cenvat credit on insurance service is no more open to debate, as in a number of cases the Tribunal has held the same as admissible. The relevant paragraphs of order of the Tribunal in the case of *Honda Motorcycle & Scooter (I) Pvt. Ltd. Vs. Commissioner of C. Ex. Delhi-III* – 2016 (45) S.T.R. 397 (Tri. -Chan.) is extracted and given below:

"(iii) The medical insurance and life insurance service :

4.1 *The credit on the medical insurance and life insurance service was denied to the appellants relying on the Circular No. 843/4/2011-CX., dated 29-4-2011 wherein, it has been held that the credit is not allowed on the services used primarily for welfare of the employees.*

4.2 *Learned Counsel argued that the insurance is for the employees' welfare and is required in terms of Section 38 of Employees State Insurance Act. She argued that the scope of insurance taken is same as required under ESI Act. She also relied on the decision of Hon'ble Karnataka High Court in the case of Stanzen Toyotetsu India (P) Ltd. - [2011 \(23\) S.T.R. 444 \(Kar.\)](#) wherein the Hon'ble High Court has observed as follows : -*

14. In so far as Insurance coverage to the employees is concerned in the course of employment if the employees suffer injury or dies, there is a vicarious liability imposed on the employer to compensate the employee. If the employer employs its own transportation facility in order to cover the risk which also includes the risk of workers who are covered in that statutory establishment. He has to take the insurance policy without which the vehicle cannot go on the road. Under the Workmen's Compensation Act he has to obtain the Insurance Policy covering the risk of the employees. The Employees' State Insurance Act takes care of the health of the employees also and casts an obligation on the employer to provide insurance services. Under these circumstances, this Group Insurance Health Policy though is also a welfare measure is an obligation which is cast under the Statute that the employer has to obey. Section 38 of the Employees' State Insurance Act, 1948, mandates that subject to the provisions of the Act, all employees in factories or establishments to which this Act applies shall be insured in the manner provided by this Act. May be the employees also have to contribute but the employer is under an obligation to take an insurance policy and contribute his share. Therefore, the said Group Insurance Health Policy taken by the assessee is a service which would constitute an activity relating to business which is specifically included in the input service definition.

4.3 *Learned AR argued that apart from insurance the employees are also availing the medical allowances and therefore medical insurance risk coverage is nothing but welfare of the employees.*

4.4 *We have considered the rival submissions. Learned Counsel has argued that the insurance is strictly in terms of Section 38 of ESI Act. In terms of the decision of Hon'ble Karnataka High Court (supra), so long as the insurance is in terms of Section 38 of ESI Act the credit of the service tax paid is allowed. The appeal on this count is allowed."*

8.3 I further find that the Hon'ble High Court of Karnataka has held the insurance service as admissible for availing the Cenvat credit as input

services. The relevant paragraphs of judgement in the case of *Commissioner of C. Ex. & Service Tax, LTU, Bangalore Vs. Micro Labs Ltd.* – 2011 (270) E.L.T. 156 (Kar.) is extracted and given below:

"This appeal is by the Revenue being aggrieved by the order of the Tribunal which held that the assesseees are liable to avail Cenvat credit towards service tax paid on Group Medclaim Policy premium.

2. *The assesseees are engaged in the manufacture of medicaments and are holders of Central Excise Registration. On scrutiny of the records by the authority it was seen that they had availed Cenvat credit for payment made towards Group Medclaim Policy premium. Accordingly, a show cause notice was issued as to why the Cenvat credit availed by the assesseees towards payment of Group Medclaim Policy premium should not be demanded and recovered since it was irregularly availed by them and also as to why the penalty and interest should not be imposed. After submitting the reply the assessing authority confirmed the demand, penalty and interest. Aggrieved by the same, an appeal was preferred to the Commissioner who confirmed the order of the assessing authority and dismissed the appeal. Aggrieved by the same the assesseees preferred an appeal before the Tribunal. The Tribunal by placing reliance in the case of *Stanzen Toyotetsu India Pvt. Ltd. v. CCE, Bangalore-III* reported in [2009 \(14\) S.T.R. 316](#) (Tri.-Bang.) held that the assesseees are entitled to avail Cenvat credit of the service tax paid on Group Medclaim Policy premium. Hence, the present appeal by the Revenue.*

3. *The question for consideration therefore is as to whether the assesseees are liable to avail Cenvat credit towards payment of service tax on the Group Insurance Health policy. An identical question came up for consideration before the Division Bench in CEA 96/2009 and connected matters which were disposed off on 8-4-2011. The question considered therein was as to whether the assesseees are entitled to claim Cenvat credit for the service tax paid on Insurance/Health Insurance policy. The Division Bench held that in so far as Insurance coverage to the employees is concerned in the course of employment if the employees suffer injury or dies, there is a vicarious liability imposed on the employer to compensate the employee. If the employer employs its own transportation facility in order to cover the risk which also includes the risk of workers who are covered in that statutory establishment, he has to take the insurance policy with which the vehicle cannot go on the road. Even for entering into the premises to meet the obligations under the workmen's compensation Act he has to obtain the Insurance Policy covering the risk of the employees. The employee State Insurance Act takes care of the health of the employees also and casts an obligation on the employer to provide insurance services. Under these circumstances, this Group Insurance Health Policy though is also a welfare measure is an obligation which is cast under the Statute that the employer has to obey. Section 38 of the Employees State Insurance Act, 1948, mandates that subject to the provisions of the Act, all employees in factories or establishments to which this Act applies shall be insured in the manner provided by this Act. May be the employees also have to contribute but the employer is under an obligation to take an Insurance policy and contribute his share. Therefore, the said Group Insurance Health Policy taken by the assessee is a service which would constitute an activity relating to business which is specifically included in the input service definition.*

4. *Therefore, merely because these services are not expressly mentioned in the definition of input service it cannot be said that they*

do not constitute input service and the assesseees are not entitled to the benefit of CENVAT credit. Infact, Rule 3 of the Cenvat Rules, 2004, specifically provides that the manufacturer of final products shall be allowed to take credit. The service tax is leviable under Section 66 of the Finance Act and paid on any input service received by the manufacturer of a final product. Therefore under the scheme of the Cenvat Credit Rules, 2004, the service tax paid on all those services which the assessee has utilized directly or indirectly in or in relation to the final product is entitled to claim the credit. Therefore, the Judgment of the Tribunal is legal and valid and is in accordance with law and does not suffer from any legal infirmity which calls for any interference.

5. *Therefore it is evident that the assesseees are entitled to avail Cenvat credit of the service tax on Group Medical Policy and Group Insurance Health Policy. Under these circumstances, the question of law that arises for consideration in this appeal having since been answered by the Division Bench as mentioned hereinabove, this appeal is dismissed in view of the aforesaid reasons."*

Accordingly, I hold that Service Tax paid on insurance services for an amount of Rs.13,38,885/- as discussed above are eligible to be availed of Cenvat credit as per statutory provisions discussed under paragraph 7 above and as per the decision above Hon'ble High Court and the Tribunal discussed in paragraphs 8.1 and 8.2 above.

8.4 Now the question that arises is regarding services which were excluded by the amendment after 02.04.2011 to the definition of Rule 2(I) of the Cenvat Credit Rules, 2004. The said services are - 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 such as Leave or Home Travel Concession. The amendment indicates when such services are used purely for personal use for consumption of any employee, the Cenvat credit cannot be allowed. On perusal of the records, I find that the appellant have been taking the insurance service on which Cenvat credit is sought to be denied relying upon the said amendment to Rule 2(I) of the Cenvat Credit Rules, 2004, which is incorrect as these services are utilized for the purposes other than personal use of employees or for consumption of employees. Thus, the input tax paid on these services would be available as Cenvat credit for under CCR, 2004, even after the amendment brought into effect from 02.04.2011.

8.5 As I have disposed the appeal on merits and factual matrix of the case, I am not recording any findings on other submissions made by both sides.

9. In view of the foregoing, I hold that the impugned order is liable to be set aside to the extent of denial of Cenvat credit in respect of insurance services as input service under Rule 2(I) of the Cenvat Credit Rules, 2004. Accordingly, in partial modification of impugned order dated 14.05.2019 to the above extent, I allow Cenvat Credit for an amount of Rs.13,38,885/-, towards insurance services. Further, I partially uphold the impugned order dated 14.05.2019 to the extent that it had denied Cenvat credit in respect of Rent-a-Cab operator service for an amount of Rs.1,97,848/-.

10. In the result, the appeal filed by the appellant is disposed of in the above terms.

(Order pronounced in open court on 03.06.2024)

(M.M. Parthiban)
Member (Technical)

Sinha