

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

WEST ZONAL BENCH, MUMBAI

Service Tax Appeal No. 87464 of 2019

(Arising out of Order-in-Appeal No. IM/CGST A-I/MUM/01/19-20 dated 02.04.2019 passed by the Commissioner of Central Tax (Appeals-I), Mumbai.)

Desai and Diwanji
2nd Floor, Lentin Chambers,
Dalal Street, Fort, Mumbai – 400 023

.....Appellant

VERSUS

Commissioner of CGST, Mumbai South
13th Floor, Air India Building,
Nariman Point, Mumbai – 400 021

.....Respondent

APPEARANCE:

Shri N.P. Khutal, Advocate for the Appellant
Shri Prabhakar Sharma, Superintendent, Authorised Representative for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. A/85927 / 2022

Date of Hearing: 13.07.2022
Date of Decision: 07.10.2022

Denial of CENVAT Credit of Rs.21,91,454/- to the Appellant law firm and its confirmation by the Commissioner (Appeals) is assailed in this order.

2. Facts of the case, in brief, is that Service Tax was held to be payable by law firms between 01.09.2009 and 30.06.2012. Accordingly, Service Tax was discharged by the Appellant from its

Mumbai Head office for both its Mumbai and Delhi Branches without a centralised Registration. Appellant was availing CENVAT Credit on inputs services received at Mumbai office and also at Delhi Branch Office. Show-cause notice was issued by the Respondent-Department for reversal of CENVAT Credit of Rs.21,91,454/- which they availed in respect of unregistered Delhi office for providing service from Delhi. Matter was adjudicated upon Service Tax alongwith interest and penalty were all confirmed against the Appellant. Appellant's appeal before the Commissioner of Central Tax (Appeals-I), Mumbai yielded no fruitful result, for which it is before this Tribunal.

3. During the course of hearing learned Counsel for the Appellant Mr. N.P. Khutal submitted that show-cause notice was issued for reversal of credit under Rule 14 of the CENVAT Credit Rules for contravention of Rule 4 of the CENVAT Credit Rules, 2004, without specific mention of which sub-Rule of Rule 4 was violated. He further submitted that it is an admitted fact that the Service Tax has been paid on the said input services availed by the Appellant and those inputs services were received and used for providing taxable services against which appropriate Service Tax was also discharged on the output services and only for the purpose of non-inclusion of premises at Delhi in the registration certificate at Mumbai, credit cannot be denied to the Appellant since show-cause notice itself indicates that it was a technical mistake. In referring several case laws including the one reported in *2010 (19) STR 506 (Tri.-Bang.)* in the case of *Manipal Advertising Services Pvt. Ltd. Vs. CCE, Mangalore* which is

directly on the point he argued that Appellant having centralised accounting system at one place can avail CENVAT Credits on invoices addressed to other premises, for which the order passed by the Commissioner (Appeals) to the extent of denial of CENVAT Credit to the Appellant is required to be set aside.

4. In response to such submissions, learned Authorised Representative for the Respondent-Department Mr. Prabhakar Sharma argued in support of the reasoning and rationality of the order passed by the Commissioner (Appeals) and stated that denial of CENVAT Credits to the Appellant was done by the Commissioner (Appeals) after meticulous examination of the provision of law and that needs no interference by this Tribunal since Section 69(1) of the Finance Act, 1994 read with Rule 4 of the Service Tax Rules, 1994 clearly stipulates that every person liable for paying Service Tax is required to get Service Tax Registration within 30 days of commencement of the business.

5. I have perused the case record and relied upon case laws namely *Manipal Advertising Services Pvt. Ltd. cited (supra)*. Facts of the case therein and the present one are almost identical since in *Manipal Advertising Services Pvt. Ltd.* also documents in the name of Appellant therein were addressed to its other premises located at Bangalore, New Delhi and Chennai Office which was held to have contravened provision of Rule 9 of the CENVAT Credit Rules, 2004. It was held in that decision that in the event of centralised billing and centralised accounting system, when one registration is permissible

under Section 4(2), discharging Service Tax liability from the registered premises would not disentitled the benefits of CENVAT Credit on the Service Tax paid by the service provider if invoices are raised in the name of Branch offices, even if the said Branch offices are unregistered one since Service Tax liability has been discharged by the main office also for service provided by the Branches. Further, when Service Tax has been paid from the main office for the input services received by the branch office, it was held that the ratio of the decision of this Tribunal in the case of *Stadmed Pvt. Ltd.* reported in 1998 (102) ELT 466 and *Gujarat Heavy Chemicals Ltd.* reported in 2005 (192) ELT 658 (Tri.-Mum.), though delivered in respect of MODVAT Credit on Central Excise duty, would also be applicable to the case in hand. Hence, in carrying forward the *ratio* of the decisions of this Tribunal and in ensuring consistency and predictability of its findings, the following order is passed.

ORDER

6. The appeal is allowed and the order passed by the Commissioner (Appeals) to the extent of denial of CENVAT Credits to the Appellant for input services availed by branch office at Delhi is hereby set aside with consequential relief to the Appellant, if any.

(Order pronounced in the open court on 07.10.2022)

(Dr. Suvendu Kumar Pati)
Member (Judicial)