

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH – COURT NO. IV

SERVICE TAX APPEAL No. 51534 of 2022

(Arising out of Order in Appeal No. 343 (SM)/ST/JPR/2021 dated 01.11.2021 passed by Commissioner (Appeals), Central Excise & Central Goods and Service Tax, Jaipur)

M/s. Punjab National Bank,
Circle Office, PNB House,
02, Nehru Place, Tonk Road,
Jaipur (Rajasthan) - 302015

...Appellant

Versus

**Commissioner,
Central GST Division H,**
Jaipur (Rajasthan) 302005

....Respondent

APPEARANCE:

Mr. Anurag Basu, Advocate for the appellant

Mr. Gopi Raman, Authorized Representative for the Respondent

CORAM : HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

Date of Hearing : **27/10/2022**

Date of Decision: **12/01/2023**

FINAL ORDER No. 50025/2023

AJAY SHARMA:

This appeal has been filed assailing the order dated 1.11.2021 by which the Commissioner (Appeals), Central Excise and Central Goods & Service Tax, Jaipur rejected the appeal filed by the appellant.

2. The issue involved herein is whether the appellant can avail Cenvat Credit in respect of input services availed by its Zonal Training Centre (ZTC), Zonal Office (ZO) and Zonal Audit Office (ZAO) in terms of Rule 2(l) of Cenvat Credit Rules, 2004 and whether the services received by Zonal Training Centre, Zonal

Office and Zonal Audit Office falls under the definition of 'input service' as provided by Rule 2(I) ibid?

3. It is the case of the department that the appellant, who is engaged in providing '*banking and financial services*', has wrongly availed the Cenvat credit of service tax paid under reverse charge mechanism on services i.e. legal consultancy service, security/detective agency service, recovery agent service and GTA service and service tax paid on telephone bills, availed at their Zonal Training Centre (ZTC) and Zonal Audit Office (ZAO) which were not providing any taxable services, whereas Zonal Office (ZO) is providing administrative support to the entire zone covering 6 circle offices having different service tax registration and the appellant being one of the circle offices, cannot claim the whole Cenvat credit of input services availed by ZO. Since it was detected during the course of audit of the records of the appellant by the department, therefore, a show cause notice dated 03.02.2020 was issued, by invoking extended period of limitation, for recovery of Cenvat Credit of Rs.13,44,665/- availed by the appellant during the period 01.04.2016 to 30.06.2017 alongwith interest and penalty under the relevant provisions of the statute. The same was adjudicated and the Adjudicating Authority vide Order-in-Original dated 21.07.2020 confirmed the demand alongwith interest and penalty as proposed in the show cause notice. On appeal filed by the appellant, the same was dismissed vide impugned order dated 01.11.2021.

4. Learned counsel appearing for the appellant submits that the appellant is engaged in providing banking and other financial services and it requires administrative as well as training department for the execution of its operations; that due to excessive workload, the appellant, instead of keeping these department in the same premises as that of the appellant, provided them three separate office premises for operational efficiency and better control and for that purpose had obtained centralized service tax registration and these three wings in issue, are assisting the appellant in its day to day operation; that the appellant is discharging its service tax liability on the total value of taxable services provided by all the premises covered under the centralized registration after utilizing the Cenvat credit of the input services received at these offices; that although these offices are not providing any taxable services on their own but they are assisting the appellant in providing its output services efficiently; that had these offices been there in the same premises as that of the appellant then the department would have allowed the Cenvat credit of input services availed by these offices. So far as Zonal Office is concerned, learned Counsel submits that the Cenvat credit on input services availed by ZO is disallowed by the department only on the ground that it is providing administrative support to 6 circle offices having different service tax registration whereas the appellant got the ZO registered under its centralized registration and availed Cenvat credit on input services availed by the said ZO and that any other circle offices have not availed any Cenvat credit in relation to the

services availed by the said ZO. In support of his submissions learned Counsel placed reliance on some decisions of this Tribunal. He also challenged the invocation of extended period and imposition of interest and penalty.

5. Per contra, learned Authorised Representative appearing on behalf of Revenue reiterated the findings recorded in the impugned order. According to learned Authorised Representative, the appellant have wrongly availed Cenvat credit in issue inasmuch as, the same is related to the services availed at their Zonal Training Centre, Zonal Office and Zonal Audit Office, out of which Zonal Training Centre and Zonal Audit Office were not providing any taxable output service, whereas Zonal Office is having jurisdiction over six other circles and hence, the credit is not admissible. He cited decisions in support of invoking the extended period

6. I have heard learned Counsel for the appellant and learned Authorized Representative for the Revenue and perused the case records including the synopsis & case laws cited by the respective sides. Admittedly the centralized registration has been obtained by the appellant in terms of Rule 4(2) of Service Tax Rules, 1994. The said rule provides that if a person is providing any taxable service and using one or more separate premises, which are assisting directly or indirectly in providing such taxable services and has centralized billing/accounting system, then the service tax registration for such separate premises can be obtained under

the centralized service tax registration. This is irrespective of the fact that such other separate premises are providing any taxable service on their own or not. It is the case of the appellant that these Zonal Training Centre (ZTC), Zonal Audit Office (ZAO) and Zonal Office (ZO) are assisting the appellant in the provision of its taxable services and have centralized accounting/ billing system. Since generally training centre and audit office are considered as integral part of any establishment therefore, I find force in the submissions of learned Counsel that these offices are integral part of the appellant and play an important role, directly or indirectly, in providing output service by the appellant smoothly. These offices are inevitable for the working of the appellant. Although they are not providing any taxable services on their own but are assisting the appellant in providing its output services efficiently. I also find force in the submission of learned Counsel that had these offices been there in the same premises, as that of the appellant, then the department would not have raised any objection regarding the input services availed by these offices.

7. Although the services in issue are confirming to the definition of *input service* under Rule 2(l) *ibid*, the only issue is that since these are availed by the offices of the appellant which are not situated in the same premises, as that of the appellant, therefore, they are not eligible for availing Cenvat Credit by the appellant, as these offices are not providing any taxable output service. In my view only because these offices are situated separately is no ground to deny the Cenvat Credit to the

appellant. These offices are integral part of the appellant and under the proper control and supervision of the appellant. They are not separate entity. For example *Zonal Training Centre* is engaged in providing training to the employee of the appellant, which is essential for the smooth and effective functioning of the appellant whereas, Zonal Audit Office is managing the internal audit function of the appellant. So far as Zonal Office is concerned, it is providing administrative assistance/ support to the appellant and its circle offices. It is the case of the appellant that they have paid service tax on the value of the taxable services provided by these offices. So far as the observation of the lower authorities are concerned that for availing Cenvat credit of service received it is required that the appellant had to take ISD (Input Service Distributor) registration on office address where centralized financial accounting and billing processing happening and these adjustments can happen only after taking the ISD registration. Time and again it has been held by the Tribunal that ISD registration is only to facilitate the distribution of credit and failure to obtain ISD registration is merely a procedural lapse and due to such failure substantial benefit cannot be denied to the assessee. It is not the case of the department anywhere that the appellant has not paid the service tax on input services received by its Zonal Offices, Zonal Training Centre & Zonal Audit Office. Details of the category of input services availed by them have also been provided to the department. So far as Zonal Office is concerned it is the objection of the department that the same is having jurisdiction over six other

circles having different service tax registration and hence the credit is not admissible but it is nowhere the case that the other circle offices have also availed any Cenvat credit in relation to the services availed by the Zonal Office. Even if, had that been the case still the eligibility of Cenvat credit claimed by the appellant would have been remained the same. As discussed hereinabove, the appellant has successfully established that these three zonal offices are integral part and parcel of the appellant only and the fact that they are located separately hardly makes any difference. Therefore, the appellant is justified in availing Cenvat Credit in respect of input services availed by its Zonal Training Centre, Zonal Office and Zonal Audit Office (ZAO) in terms of Rule 2(I) of Cenvat Credit Rules, 2004 and the services received by these zonal offices fall under the definition of 'input service' as provided by Rule 2(I) ibid. Therefore, the demand raised in the show cause notice is not sustainable and once the demand has been set aside, there is no question of any interest or penalty.

8. In view of the discussions made hereinabove, the appeal filed by the appellant is allowed with consequential relief, if any, as per law.

[Pronounced in the open Court on **12/01/2023**]

(AJAY SHARMA)
MEMBER (JUDICIAL)

Anita