

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

**WEST ZONAL BENCH**

**Service Tax Appeal No. 85062 of 2020**

(Arising out of Order-in-Appeal No. NA/CGST/A-I/MUM/162/19-20  
dated 19.09.2019 passed by the. Commissioner of GST & CX  
(Appeals)-I, Mumbai Zone)

**Warburg Pincus India Pvt. Ltd.**  
**7<sup>th</sup> Floor, Express Towers,**  
**Nariman Point,**  
**Mumbai**

**.....Appellant**

*VERSUS*

**Asst. Commissioner, CGST & Central**  
**Excise, Division VIII, Mumbai South**  
**13<sup>th</sup> & 15<sup>th</sup> Floor, Air India Bldg..**  
**Nariman Point,**  
**Mumbai**

**.....Respondent**

**APPEARANCE:**

Shri Vinay Jain, Advocate for the appellant  
Shri Vinod Kumar, AC(AR) for the respondent

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

**FINAL ORDER No: A/86086 / 2022**

DATE OF HEARING : 04.11.2022  
DATE OF DECISION : 18.11.2022

**Per: AJAY SHARMA**

This appeal has been filed assailing the order dated  
19.09.2019 passed by the Commissioner of GST & CX (Appeal)-  
I, Mumbai Zone disposing of the Appeal filed by the appellant by

reducing the amount of disallowed Cenvat Credit from Rs.22,86,677/- to Rs.2,26,406/- alongwith interest and penalty.

2. The issue involved in the instant Appeal is whether the lower authorities are justified in denying the Cenvat credit to the appellant for *renting-a-cab* service during the period 2011-12 and for outdoor *catering service* during the period 2014-15?

3. I have heard learned counsel for the appellant and learned Authorised Representative for the Revenue and perused the case records including the synopsis and case laws filed on behalf of the appellant. As per learned Authorised Representative Cenvat Credit of *rent-a-cab* service of Rs.59,546/- has been denied to the Appellant as according to the department the said service has been specifically excluded from the definition of input service w.e.f. 01.04.2011. So far as Cenvat credit of Rs.1,66,860/- on account of *outdoor catering service* is concerned, learned Authorised Representative submits that the same is denied to the appellant as it's a welfare measure adopted by the appellant for its employees and it has no nexus to the output service. Per contra learned counsel submits that the appellant is engaged in the export of investment advisory service to M/s. Warbug Pincus LLC, New York, USA which is covered under taxable service category and the appellant uses various input services for export of its output services during the course of its business. He further submits that admittedly the *rent a cab* service has been excluded w.e.f. 01.04.2011 but the said service has been utilized by the appellant prior to 01.04.2011 and merely the invoices have been recorded in the books of account and in Cenvat credit register post 01.04.2011. For outdoor catering service learned Counsel submits that the said service has been used for providing meals to its employees round the clock in order to get more output from the employees.

4. So far as *rent a cab* service is concerned, it is clear from case records that although the Appellants have received this service prior to 01.04.2011 which is supported by the documentary evidence wherein the travel date is prior to 01.04.2011 but the invoices has been recorded in the books of accounts and in Cenvat credit register post 01.04.2011, which according to me still make the appellant eligible to avail the Cenvat credit and my aforesaid view find support from the decision of this Tribunal in the matter of *M/s. Mediacom Media India Pvt. Ltd. vs. CC,CGST, Mumbai East; 2019(10)TMI 690-CESTAT Mumbai*. Even the circular dated 29.4.2011 issued by the Government clarified that the credit in respect of rent a cab service would be available in case the provision of the service was completed before 1.4.2011. So far as *Outdoor catering service* is concerned, it is the specific case of the appellant, that although the Cenvat credit availed under this head during the year 2014-15 was only Rs.1,837/- but the department has wrongly added the amount of *air travel service* also into it so as to make it Rs.1,66,860/-. The same submissions were raised before the Adjudicating Authority as well as before the learned Commissioner but none of them have recorded any finding regarding rejecting or accepting the said submission of the appellant. I have gone through the record of the case and am agree with the submissions of the learned counsel and am of the view that the amount which pertains to *air travel service* has to be deducted from the total amount of Rs.1,66,860/- as *Air travel service* has already been allowed by the Authority below. Once the amount of *air travel service* is deducted from the total amount of Rs.1,66,860/- then only Rs.1,837/- remains under the head *outdoor catering service*. Now I have to see whether the appellant is eligible to avail the credit of Rs.1,837/- which relates to *outdoor catering service*. The said service has been used by appellant for providing meals to its employees round the clock and certainly the same is going to enhance efficiency and performance of the appellant's employees which undoubtedly

has nexus with the output service and therefore the credit is admissible. Undisputedly the said service is used by the appellant for its business activity during office hours and not as a personal or welfare measure for its employees nor it's a perquisite provided by the appellant to its employees. Same view has been taken by the Tribunal in the matters of *M/s. Mediacom Media India Pvt. Ltd (supra)* and *Heartland Bangalore Transcription Ser.(P) Ltd. vs. CST Bangalore; 2011(21)STR 430(Tri-Bang.)*.

5. Since on merits both the issues have been decided in favour of the appellant therefore I am not going into other issues like extended period, penalty etc. In view of the discussions held in preceding paragraphs, the appeal filed by the appellant is allowed with consequently relief, if any, as per law.

(Pronounced in open Court on 18.11.2022)

**(Ajay Sharma)**  
**Member (Judicial)**

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