
(2015) 03 MAD CK 0475
In the Madras High Court
Case No : C.M.A. No. 3346 of 2010

Commissioner of Central Excise and Service Tax	APPELLANT
Vs	
Rane TRW Steering Systems Ltd.	RESPONDENT

Date of Decision : 27-03-2015

Acts Referred:

Citation : (2015) 39 STR 13

Hon'ble Judges : R. Sudhakar, J;T. Raja, J

Bench : Division Bench

Advocate : Ravi Ananthapadmanabhan, for the Appellant; S. Jaikumar, Advocates for the Respondent

Judgement

R. Sudhakar, J.—Aggrieved by the order of the Tribunal in allowing the appeal filed by the assessee/respondent the appellant/Revenue is before this Court by filing the present appeal. The respondent/assessee, in this case, are manufacturers of parts of power steering systems, test Bench and parts of test Bench falling under Chapters 87 and 90 of the first schedule to the Central Excise Tariff Act, 1985. In terms of the Cenvat Credit Rules, 2004, the assessee is availing credit of duty paid on various inputs and capital goods. The assessee had availed credit of service tax paid on housekeeping and gardening services. Since the assessee was not eligible to avail credit of service tax on these services, a show cause notice was issued by the Deputy Commissioner of Central Excise, Tiruchirappalli-II Division, proposing to recover credit of Rs. 3,30,486/-. After due adjudication, the Deputy Commissioner disallowed the credit and also imposed penalty.

2. Against the said order, the assessee preferred appeal to the Commissioner (Appeals). The said appeal was dismissed by the Commissioner (Appeals) against which the assessee filed an appeal before the Tribunal. The Tribunal, following the decision of the Coordinate Bench in the case of ISMT Ltd. reported in 2010-TIOL-27 : 2010 (20) S.T.R. 68 (Tri.-Mum.) and Millipore India Ltd. reported in 2009-TIOL-490 : 2009 (13) S.T.R. 616 (Tri.-Bang.) : 2009 (236) E.L.T. 145 (Tri.-

Bang.) , allowed the appeal. Aggrieved by the said order of the Tribunal, the appellant/Revenue is before this Court by filing the present appeal.

3. Heard the learned counsel appearing for the appellant/Revenue and the learned counsel appearing for the respondent/assessee.

4. Vide order dated 23-12-2010, this Court admitted the appeal on the following substantial question of law:-

"(i) Whether the Hon"ble Tribunal was right in including "Housekeeping and Landscaping Services" in the scope of term "input service" defined in Rule 2(1) of the Cenvat Credit Rules, 2004, without examining whether it was a service used directly or indirectly in or in relation to the manufacture of final products (or) used directly or indirectly in or in relation to the clearance of final products upto the place of removal especially when the Hon"ble Supreme Court in the case of Collector of Central Excise Vs. Solaris Chemtech Limited and Others, (2007) 120 ECC 10 : (2007) ECR 10 : (2007) 214 ELT 481 : (2007) 9 JT 420 : (2007) 7 SCC 347 : (2007) 8 SCR 501 : (2007) 9 STT 412 has held that the term "in relation to" would refer to an essential process or activity and in the case of Maruti Suzuki Ltd. Vs. Commissioner of Central Excise, Delhi-III, (2009) 168 ECR 87 : (2009) 240 ELT 641 : (2009) 11 JT 8 : (2009) 11 SCALE 446 : (2009) 9 SCC 193 : (2009) 13 SCR 301 : (2009) 22 STT 54 : (2009) 7 UJ 3257 has held that the expression "in or in relation to the manufacture" is the substantive/ specific and crucial requirement of the definition?"

5. Though the question of law has been raised, as above, for consideration, the main ground raised in the appeal is only with regard to including "Housekeeping and Landscaping Services" under the term "input service" in terms of Rule 2(I) of the Cenvat Credit Rules, 2004.

6. However, at the time of admission, learned counsel appearing for the respondent/assessee brought to the notice of this Court that the said issue has been considered by the Karnataka High Court in favour of the assessee. Learned counsel for the appellant also fairly concedes the same.

7. In Commissioner of C. Ex., Bangalore-II Vs. Millipore India Pvt. Ltd., (2012) 26 STR 514 , the Division Bench of the Karnataka High Court had occasion to consider similar issue and in the facts of the said case, while considering the definition "input services" as defined under Section 2(1) of the Cenvat Credit Rules, 2004, the Karnataka High Court held as under:-

"7. That apart, the definition of input services is too broad. It is an including sive 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. At any rate, the credit rating of an industry is depended upon how the factory is maintained inside and outside the premises. The Environmental law expects the employer to keep the factory without contravening any of those laws. That apart, now the concept of corporate social responsibility is also relevant. 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."

8. A cursory reading of the said judgment reveals that the facts in issue therein are similar to the facts in the present case. It is clear from the decision that where an employer spends money to maintain their factory premises in an eco-friendly manner, the tax paid on such services would form part of the cost of the final products and the same would fall within the ambit of "input services" and, therefore, the assessee is entitled to claim the benefit. This Court is in agreement with the ratio laid down in Millipore India Pvt. Ltd. case (supra), which is equally applicable to the case on hand and following the said decision, this appeal is liable to be dismissed. Accordingly, the substantial question of law is answered in favour of the assessee/respondent and against the appellant/Revenue. For the reasons afore-stated, this appeal fails and the same is dismissed. However, in the circumstances of the case, there shall be no order as to costs.