(2021) 03 CESTAT CK 0006

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Service Tax Appeal No. 41448 Of 2019

M/s. Cholamandalam MS General Insurance Co. Ltd. @Hash Commissioner Of G.S.T. And Central Excise

Date of Decision : 03-03-2021

Acts Referred:

Cenvat Credit Rules, 2004 — Rule 14
Finance Act, 1994 — Section 73(1)

Citation : (2021) 03 CESTAT CK 0006

Hon'ble Judges : P. Dinesha, J

Bench : Single Bench

Advocate : R. Sai Prashanth, S. Balakumar

Final Decision : Allowed

Judgement

1. This appeal has been filed by the assessee against Order-in-Appeal No. 148/2019 (CTA-I) dated 06.05.2019 passed by the Commissioner of G.S.T.

and Central Excise (Appeals-I), Chennai.

2.1 The appellant is engaged in providing General Insurance Services, Auxiliary Services, Renting of Immovable Property Services, Manpower

Supply, etc. During the course of scrutiny of ST-3 returns of the appellant for the period from April 2015 to March 2016, it was noticed by the

Department that the appellant had availed and utilized ineligible input Service Tax credit on Accommodation Services and Cleaning Services. The

Department was of the view that the above input services were not covered under the inclusive definition of input services and that these services

were not used for providing the output service namely â??General Insurance Serviceâ??.

2.2 A Statement of Demand dated 28.03.2017 was issued to the assessee proposing to recover the ineligible input Service Tax credit under Rule 14 of the CENVAT Credit Rules, 2004 read with Section 73 (1) of the Finance Act, 1994 along with interest at appropriate rates and penalty. After due

process of law, the Adjudicating Authority vide Order-in-Original No. 14/2018 dated 27.03.2018 confirmed the proposals made in the Statement of

Demand. Thereafter, the assessee preferred appeal before the First Appellate Authority, who vide order impugned herein upheld the order passed by

the Adjudicating Authority. Aggrieved by the same, the appellant is now before this forum.

3. I have heard both sides, perused the documents placed on record and have gone through the various case laws referred to during the course of

arguments.

4. It is agreed by both the parties that the issue stands covered by the order of this Bench of the Tribunal in the assesseeâ??s own case in Service

Tax Appeal No. 42095 of 2017 vide Final Order No. 42579 of 2018 dated 03.10.2018 [2018 (10) T.M.I. 839 â?" CESTAT Chennai] wherein, under

similar circumstances, this Bench followed an earlier Final Order of CESTAT, Chennai in the appellantâ??s own case [Final Order Nos. 41597 to

41599 of 2017 dated 09.08.2017], wherein the matter was remanded to the file of the Adjudicating Authority.

5. In view of the above, this appeal also requires readjudication in so far as the issues that are urged in the above appeal. Accordingly, I set aside the

impugned order and remand the matter back to the file of the Adjudicating Authority to re-adjudicate the issue involved in the present appeal, in the

light of the directions contained in Final Order No. 42579 of 2018 dated 03.10.2018.

6. The appeal stands allowed for statistical purposes, by way of remand.

(Operative part of the order was pronounced in open court)