(2021) 03 CESTAT CK 0113

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Excise Appeal No. 10249 Of 2020

Nayara Energy Ltd APPELLANT

Vs

C.C.E. And S.T.-Rajkot RESPONDENT

Date of Decision : 15-03-2021

Acts Referred:
Cenvat Credit Rules, 2004 — Rule 2(l)

Citation : (2021) 03 CESTAT CK 0113

Hon'ble Judges : Ramesh Nair, J

Bench : Single Bench

Advocate : Dimple Gohil, Sharad Airan

Final Decision : Allowed

Judgement

Sr. No,Service Category,Description of services & Case Laws

1,"Rent-a-cab, Tour Operator

and Travel Agent (Rs.

10,88,061 + 1,18,735 + 3,426)

(Total Rs. 12,10,222)

representative/s ample

copies of invoices are @ pp.

no. 158- 159","The said services pertain to hiring of vehicles which are used

by its employees for their movement within the Refinery

premises or for travelling outside in connection with its

business. Travel agent service has been utilized for booking

of travel tickets for its employees for their official travel. The services are, therefore, used in or in relation to

manufacturing / business activities of the company.

Case Laws: Â

Â· Adani Port & Special Economic Zone Ltd. v. C.S.T.,

Ahmedabad [2016 (42) STR 1010 (Tri.-Ahmd)] @ pp.

6-38 Â

Â· Reliance Industries Ltd. v. Commissioner Of C. EX. &

S.T., LTU, Mum [2016 (45) S.T.R. 383 (Tri. - Mumbai)]

@ pp.39- 44 Â

Â· Principal Commissioner v. Essar Oil Ltd. [2016 (41)

S.T.R. 389 (Guj.)] @ pp 45-47 Â

Â· C.C.Ex., Raipur v. Beekay Engg. & Castings Ltd.

[2009 (16) S.T.R. 709 (Tri. - Del.)] @ pp. 48-50 Â

Â· Essar Oil Ltd. v. CCE, Rajkot [Final Order No.

A/10039/2016 dated 15th January, 2016] @ pp. 51-54

2,"Renting of Immovable

Property (Rs. 12,36,000)

representative/s ample

copies of invoices are @ pp.

no. 160- 161","These services pertain to service tax paid by the output

service provider towards the office premises provided to the

company on rent. These office premises are being used for

carrying out its business activity viz. procurement, marketing,

auditing, accounting etc.

Case Laws: Â

Â· Adani Port & Special Economic Zone Ltd. v. C.S.T.,

Ahmedabad [2016 (42) STR 1010 (Tri.-Ahmd)]@ pp.

6-38 Â

Â· (Hindustan Coca-Cola Beverages Pvt Ltd. v.

Commissioner of Central Excise, Chennai [2019 (5)

TMI 251 â?" CESTAT Chennai] @ pp 57-63

3,"Telecommunication Service

(Rs.7,00,014)

representative/sam ple

copies of invoices are @ pp.

no. 162-163","The mobile phone service is used by employees for carrying

out business activities.

Case Laws: Â

Â· Adani Port & Special Economic Zone Ltd. v. C.S.T.,

Ahmedabad [2016 (42) STR 1010 (Tri.-Ahmd)]@pp

no.6-38 Â

Â· Reliance Industries Ltd. v. Commissioner Of C. EX.

& S.T., LTU, Mum [2016 (45) S.T.R. 383 (Tri. -

Mumbai)]@ pp 39- 44 Â C.C.Ex.,

Â· Goa v. Hindustan Coca Cola Beverages Pvt. Ltd.

[2015 (39) S.T.R. 360 (Bom.)]@ pp 64-66 Â

Â· Essar Oil Ltd. v. CCE, Rajkot [Final Order No.

A/11288 / 2017 dated 27/02/2017] @ pp 67-71

4,"Convention Service (Rs.

2,50,506) representative/sam

ple copies of invoices are @

pp. no. 135-153 -","The said services were utilized in relation to training of its

employees. The input service provider has provided the stay

and other facilities for the employees of the company who

attended such trainings. Explicitly covered in R. 2(l) Case

Laws: Â

Â· Adani Port & Special Economic Zone Ltd. v. C.S.T.,

Ahmedabad [2016 (42) STR 1010 (Tri.-Ahmd)]@ pp.

6-38 Â

Â· Reliance Industries Ltd. v. Commissioner Of C. EX.

& S.T., LTU, Mum [2016 (45) S.T.R. 383 (Tri. -
Mumbai)]@ pp 39- 44 Â
Â· Hindustan Petroleum Corp. Ltd. v. C.C.Ex., C. &
S.T., Visakhapatnam [2017 (47) S.T.R. 136 (Tri. -
Hyd.)]@ pp 72-76 Â
Â· Manhattan Associates (I) Dev. Centre Pvt. Ltd. v.
C.S.T. Bangalore [2017 (5) G.S.T.L. 99 (Tri. - Bang.)
@ pp. 77 -82
5,"Airport Civil Enclave (Rs.
Rs.82,203)
representative/sam ple
copies of invoices are @ pp.
no. 123-132 -","The said service is received in connection with its private
aircraft which is used for travel of employees, consulting
engineers, business clients etc. connected with the
manufacturing activity and business of the company.
Case Laws: Â
Â· Reliance Industries Ltd. v. Commissioner Of C. EX.
& S.T., LTU, Mum [2016 (45) S.T.R. 383 (Tri. -
Mumbai)]@pp.39-44 Â
Â· Adani Port & Special Economic Zone Ltd. v. C.S.T.,
Ahmedabad [2016 (42) STR 1010 (Tri.-Ahmd)]@ pp.
6-38
6,"Authorized service station
(Rs.1,921)
representative/sam ple
copies of invoices pertaining
to the said service@ pp. no.
133- 134","The said service is used for servicing of company owned
vehicles which are used by the employees for their official

travel for carrying out their official responsibilities which are

in relation to manufacture / business.

Case Laws: Â

Â· Adani Port & Special Economic Zone Ltd. v. C.S.T.,

Ahmedabad [2016 (42) STR 1010 (Tri.-Ahmd)] @ pp.

6-38 Â

Â· Reliance Industries Ltd. v. Commissioner Of C. EX.

& S.T., LTU, Mum [2016 (45) S.T.R. 383 (Tri. -

Mumbai)]@ pp .39- 44

7,"Company secretary (Rs.

12,048) representative/sam

ple copies of invoices

pertaining to the said service

are @ pp. no. 156-157 -","The said service is utilized for fulfilling various statutory

obligations of the company such as Secretarial Audit under

Clause 47 (c) of the SEBIâ??s listing agreement and

certification etc. which are in relation to manufacture /

business. Explicitly covered in R. 2(l) Case Laws: Â

Â· Adani Port & Special Economic Zone Ltd. v. C.S.T.,

Ahmedabad [2016 (42) STR 1010 (Tri.-Ahmd)] @ pp.

6-38 Â

Â· Essar Oil Ltd. v. CCE, Rajkot [Final Order No.

A/11288 / 2017 dated 27/02/2017] @ pp. 67-71

8,"Outdoor catering (Rs.

2,32,624) representative/sam

ple copies of invoices

pertaining to the said service

are @ pp. no. 156-157 -","The said service pertains to operation of industrial canteens which are located in its Refinery. In terms of the provisions of the Factory Act, it is mandatory for certain factories to provide an industrial canteen within the factory premises.

Case Laws:

Â· Adani Port & Special Economic Zone Ltd. v. C.S.T., Ahmedabad [2016 (42) STR 1010 (Tri.-Ahmd)]@ pp 6-38 Â

Â· Reliance Industries Ltd. v. Commissioner Of C. EX. & S.T., LTU, Mum [2016 (45) S.T.R. 383 (Tri. - Mumbai)]@pp no.39-44 Â

Â· Essar Oil Ltd. v. CCE, Rajkot [Final Order No. A/10039/2016 dated 15th January, 2016] @ pp.51-54

9,"Mandap Keeper (Rs. 3,503)

representative/sam ple

copies of invoices are @ pp.

no. 154-155 -","The said service is rendered by the hotel used by the company for the purpose of conducting interviews for recruitment of employees and for business conferences held with its business associates Case Laws: Â

Â· Adani Port & Special Economic Zone Ltd. v. C.S.T., Ahmedabad [2016 (42) STR 1010 (Tri.-Ahmd)] @ pp no.6-38 Â

Â· Reliance Industries Ltd. v. Commissioner Of C. EX. & S.T., LTU, Mum [2016 (45) S.T.R. 383 (Tri. - Mumbai)] @pp no. 39-44

10,"Steamer agent (Rs. 34,240)

representative/sam ple

copies of invoices are @ pp.

no. 164-165 -","The said service has been utilized by it in relation to procurement of inputs / inward transportation of inputs or capital goods which is specifically covered by the definition

of input service Case Laws: Â

Â· Adani Port & Special Economic Zone Ltd. v. C.S.T.,

Ahmedabad [2016 (42) STR 1010 (Tri.-Ahmd)] @ pp.

6-38 Â

Â· Reliance Industries Ltd. v. Commissioner Of C. EX.

& S.T., LTU, Mum [2016 (45) S.T.R. 383 (Tri. -

Mumbai)] @ pp 39- 44

,"Total (Rs. 37,63,282/-)",

