(2021) 12 CESTAT CK 0025

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Excise Appeal No. 12070, 10987 Of 2016

Styrolution India Pvt Ltd Ineos Styrolution India Ltd	APPELLANT
Vs	
C.C.E-Bharuch	RESPONDENT

Date of Decision : 02-12-2021

Acts Referred:
Services Tax Rules, 2012 — Rule 2(i)d(iv)
Cenvat Credit Rules, 2004 — Rule 7

Citation : (2021) 12 CESTAT CK 0025

Hon'ble Judges : Ramesh Nair, J;Raju, Technical Member

Bench : Division Bench

Final Decision : Allowed/Partly Allowed

Judgement

Sr No.,Credit availed on,"Description of the services as stated by Shri Minesh Gupta",

1.,"HR Administration (percentage)

services","These are the expenses related to HR Administration

Department and charged on fix management basis. I

am not aware of that which category of the service is

covered.",

2.,HR Department services,These are the expenses related to HR Department.,

3.,"HR Policies (Percentage)

services","These are the expenses related to HR Policies

charged on fixed percentage basis.",

4.,"Government Liasion (Percentage)

services","These are the expenses related to liasioning with various Govt Offices & charged on fix management

basis.",

5.,"Repair & Control (Percentage)

Services","These are expenses related to reporting and

controlling. These are finance activity",

6.,"E x t e r n a l Communication

(Percentage) services.",It is a fix charges incurred for external communication,

7.,"Managing Director (Percentage)

services","Managing Director was common so his expenses

were charged to respective companies.",

8.,Accel- Order to services.,"M/s Styrolution India Ltd., Dahej had taken a project of business promotion named as Accelerator.

Expenses related to this activities were charges under

this head",

9.,"Accounts & Management

Information system (MIS)

Services","These services are in relation to finance

activities/matters. MIS services mean Management

Information System Services. This is a kind of

financial report/overall business activity.",

10.,"Accounts Pay (Percentage)

Services","These are the expenses related to financial activities

charges on a fix percentage",

11.,Accounts Receivable Service,"This is an activity in relation to collection of outstanding money.",

12.,Business Partner Services,"The service provider deputed some person for common business activity has been called Business

Partner Services. I am not aware of that which

category of the service is covered. These services are

eligible for cenvat credit because these services are in relation to our business so we availed credit for

service tax. The term in relation to business activities

was eligible till 01.04.2011.",

13.,Chairmanâ??s Office Services,"Chairman is common so his expenses were charged

to respective companies. I am not aware of that

which category of the service is covered",

14.,"C orpora te Communications

services","Information made available to employees to covered

under this head. I am not aware of that which

category of the service is covered. These services are

eligible for cenvat credit because these services are in

relation to our business so we availed credit for

service tax. The term in relation to business activities

was eligible till 01.04.2011",

15.,Credit Management Service,"It is a financial service related to credit period for

making payment",

16.,"E m p l o y e e Communication

(Percentage) Services","It is a fix charges incurred for communication to

employees.",

17.,"F a c i l i t y Management

(Percentage) Services","These are the expenses related to event activity

management charged on fix management basis",

18.,"IT APPL HR SAP,I T APPL

SAP (Percentage), IT Comm

(Percentage), IT Services, IT/IS

Govern (Percentage) services","These are the services related to information

technology like SAP Software etc.",

19.,ITG Automotive services,"For the business promotion Automotive sector was identified, expenses related to these activities were

charged under this head.",

20.,Office Administration services,"The activity related to office administration like office

management and maintenance were charged under

this head.",

21.,"Office Service, office Space

services","The activities related to office space allocation were

charged under this head.",

22.,"Personal Computer Workplace

(Percentage) services","These are the activities related to Computers like

personal computer, laptop, printers and software etc,

charged on fixed percentage.",

23.,"Room Supply (Percentage)

services","These are the expenses related to meeting

room/conference hall charged on fixed percentage

basis.",

Sr No,Nature of Service.,Usage and requirement of Service,Findings

1.,"Advocate's Service

(Legal Services).","The Legal services are availed from

Advocates for Central Excise Matters.

Legal Services are Covered under inclusive

part of definition of input services.","Legal Services for

Central Excise matters

are admissible for the

purpose of Cenvat credit

2.,"Chartered

Accountant's

services.","Chartered Accountant services were used

for income tax & Accounting matters.

Accounting and Auditing are covered under

the inclusive part of definition of input

services","Chartered Accountant

services for income tax

and accounts are

specifically covered

3.,"Insurance

Surveyor's Services.","The services of Insurance surveyors were

utilised for survey report of raw material

required for production. Services related to

Procurement of inputs are covered under

inclusive part of definition of Input services.

Judgments :

i) 2014 (313) ELT 714 (T) CCE Vs. India

Cements Ltd.

ii) 2015 (40) STR 774 (T) DCW Ltd. Vs.

CCE","Moreover, the case law

cited by appellant

squarely covers such

services. The services

a r e in relation to

procurement of raw

material therefore,

admissible as credit.

4.,"Maintenance or

Repair Services.","The Appellant's Marketing department is

located at Mumbai. The services are used

for upkeep of the office and maintenance

work related to office. The Marketing

Department is looking after Marketing after

goods manufactured by the Appellant's
Dehaj Manufacturing Division. Services
related to renovation or maintenance etc
relating to office of the factory are covered
under inclusive part of definition of Input
services.","The services availed by
Marketing Department
are relates to rules of
excisable goods and
therefore admissible
5.,"Manpower
Recruitment &
Supply Services.","These services are relating to Supply of
Manpower at Factory for various Agency's
activities related to Production etc..
Services used directly or indirectly in or in
relation to manufacture are covered under
the definition of input services.
Judgement:
2014 (310) ELT 808 (Tri. Del.) Jaypee
Sidhi Cement Plant Vs. CCE","Moreover, the case law
cited by appellant
squarely covers such
services. Supply of
manpower to factory is
admissible as credit
6.,"Membership clubs
Services","The Appellants are member of the Plastic
Manufacturers association. Membership of
Plastic manufacturers association is

essential for manufacturer of plastics and
therefore is covered under the inclusive as
well as main part of the definition of input
service. In this context, the Appellant rely
upon the following judgements :-
1 2013 (31) STR 68 (T)BCH Electric Ltd
Vs.CCE
2. 2015(37) STR 716 (All.) CCE vs. HCL
Technologies
3. 2016(42) STR 332 (T) Racold Thermo
Ltd .vs. CCE 2016 (42) STR 494 (T)
Hinduja Foundries Ltd vs. CCE","Moreover, the case law
cited by appellant
squarely covers such
services. The service
used in relation to
manufacture and
Marketing and therefore
admissible.
7.,"Storage and
Warehousing
Services.","Warehousing charges for storage of our
manufactured goods at Depot. As per
Section 4 of Central Excise Act, 1944,
Depot is place of removal and all services
up to place of removal are covered under
the definition of Input services. In this
context, the Appellant rely upon the
following judgements :
2013 (30) STR 214 (T) Castrol India Ltd.

Vs. CCE.

2008 (86) RLT 547 (Cestat) Metro Shoes

Pvt. Ltd. Vs. CCE","Moreover, the case law

cited by appellant

squarely covers such

services. Services

availed up to place of

removal for storage of

goods are admissible

services.

8.,"Banking and other

Financial Services","Banking Service relate to financing, Foreign

Exchange related to import of raw material

a n d export of manufactured goods.

Services related to financing are covered

under input service definition.

In this context, the Appellant rely upon the

judgment in case of Semco Electric P. Ltd.

Vs. CCE reported in 2012 (25) STR 73 (T)","Moreover, the case law

cited by appellant

squarely covers such

services. Services

related to procurement

of raw material are

admissible for credit or

service tax.

9.,"Business Auxiliary

Services","Sales Commission is given 10 distributors'

for sale of our manufactured goods. Sales

promotion is covered under the inclusive

part of definition. Of input services In this
context, the Appellant rely upon the
following Judgments:-
(i) 2016-TIOL-520- CESTAT-AHM Essar
Steel India Ltd. Vs. CCE
(ii) 2012 (25) STR 348 (P&H) CCE Vs.
Ambika Overseas
iii) CBE&C Instruction F. No.96/85/2015-
CX.I dated 07 12.2015","The Honâ??ble High
Court of Gujarat in the
case of Cadila- 2013
(30) STR 3 has
observed that it is not
admissible for credit of
service tax. Thus the
credit is not admissible.
10.,"Online Telecom
Network Service","Subscription for online data related to
Chemical imports. imports Chemical data is
useful for procurement of inputs therefore
covered under the definition of input
services.","The services used in
relation to procurement
of raw material it is
therefore admissible for
credit
11.,"Cargo Handling
Services.","Services relating to Packing charges/labour
for loading/ unloading of office records and
computers for shifting from our Mumbai

office to Dahej factory. Shifting of records pertaining to marketing Department to factory is necessary as per requirement and therefore covered under the inclusive part of definition of input services. Without records, factory cannot function & therefore the service relate to production of goods.

In this context, the Appellant rely upon the judgment in case of J.P. Morgan Services (I) Pvt. Ltd. Vs. CST reported in 2016 (42) S.T.R. 196 (Tri-Mumbai)","Moreover, the case law cited by appellant squarely covers such services. These services a r e related to manufacture and management process. Therefore, these are admissible for credit.

12.,"Commercial Coaching and Training Services.","Professional fees for Actuarial Calculations as per IAS 19- 31.12.2009 standards.

These services related to accounting of Gratuity & Leave encashment of employees working at Factory. This is related to Accounting function. Accounting is covered under the inclusive part of definition of input services.

Registration fees have been paid for
programme on day to day Labour Laws for
Managers. Coaching & Training are
covered under the definition of input
services.","The services are related
to employees engaged in
manufacture and sale of
excisable good. The
credit is admissible.
13.,IT Services,"IT Services related to conversion &
validation of XBRL files as per MCA
guidelines. These are accounting related
computer services and covered under the
inclusive part of definition of input services.","Services are used for
accounting activity
which is specifically
included in the definition
o f inputs services.
Therefore, the credit is
admissible.
14.,Courier Services,"Courier Service for Marketing Department.
Without dispatching post etc. through
courier service the function of Marketing of
manufactured goods cannot be performed.
Therefore, these services are covered
under the definition of input services. In this
context, the Appellant rely upon the
following judgments :
i) 2013 (30) STR 3 (Guj.) CCE Vs. Cadila
Healthcare Ltd.

ii) 2016 (41) STR 990 (T) John Deere India

Pvt. Ltd. Vs. CCE

iii) 2016 (6) TMI 161- Cestat Sundaram

Clayton Ltd. Vs. CCE","Moreover, the case law

cited by appellant

squarely covers such

services. The services

are used for marketing

and sale of excisable

goods,. The credit is

therefore, admissible.

15.,"Taxation

Consultancy

Service.","Taxation services related to accounting, are

covered under the definition of input

services","Taxation and accounting

are covered in the

definition of inputs

services. Therefore, the

16.,"Renting of

immovable property

services.","These services relate to Rent for our

Marketing office at Mumbai. Services

availed for office relating to factory are

covered under inclusive part of definition.

In this context, the Appellant rely upon the

following judgements:

(I) 2013 (30) STR 511 (T) National

Engineering Inds. Ltd. Vs. CCE

ii) 2013 (30) STR 357 (T) Oracle Granito

Ltd. Vs.CCE

iii) 2016 (41) STR 990 (T) John Deere

India Pvt. Ltd. Vs. CCE","credit is admissible.

Moreover, the case law

cited by appellant

squarely covers such

services. Renting of

premises is essential for

marketing and rules of

excisable goods. The

credit is therefore,

admissible.

17.,"Business Auxiliary

Services","Subscription for magazine related to Plastic

Products These services relate to

marketing of goods and procurement of

inputs, manufacturing operations etc. and

are covered under the definition of input

services definition.","Services are in relation

to marketing of goods

and procurement of raw

material. It is admissible

as credit.

2.,"Business Support

Services","Payment towards support services

related to Manpower, Procurement of

goods, Accounting, Human Resources

Development, Accounts Payable,

Accounts Receivables and other services

related to manufacturing operations. All

these services are covered under the
definition of input services.","The services are in
relation to procurement
of raw material
therefore, admissible as
credit.
3.,"Intellectual Property
Services","Intellectual Property Rights related to the
goods by the Appellant. These services
relate to our manufacturing operations
and therefore covered under the
definition of input services.
In this context, the Appellant rely upon
the judgment in case of CST Vs. Arvind
Fashions Ltd. reported in 2012 (25) STR
583 (Kar.)","Moreover, the case law
cited by appellant
squarely covers such
services. The service is
related to right to use
designs/processes
involved in manufacture.
The credit is admissible.
4.,"Online Information
and data base
access or retrieval
services.","SAP Application Support. The
Appellants are availing SAP Services for
Procurement, sales, Production, Quality
Control, Accounts & Finance, &

Inventory Management Maintenance
etc. & therefore are covered under the
definition of Input Services.
In this context, the Appellant rely upon
the judgment in case of Castrol India
Ltd. Vs CCEr eported in 2013 (30) STR
214 (T).","Moreover, the case law
cited by appellant
squarely covers such
services.
Services are used for
accounting activity which
is specifically included in
the definition of inputs
services. Therefore, the
credit is admissible.
5.,"Technical Testing
and Services
Analysis","Technical testing & Analysis of Finished
Goods. This is required for ensuring
quality of manufactured goods and
therefore covered under the definition of
input services. In this context, the
Appellant rely upon the following
judgments :
i) 2013 (30) STR 572 (T) Semco Electric
P. Ltd. Vs.CCE
ii) 2013 (30) STR 3 (Guj.) CCE Vs.
Cadila Healthcare Ltd.","Moreover, the case law
cited by appellant

squarely covers such

services. The services

are in relation to quality

of control of excisable

goods. The credit is

therefore, admissible