

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad**

REGIONAL BENCH-COURT NO. 3

Excise Appeal No. 10859 of 2016 - DB

(Arising out of OIO-VAD-EXCUS-002-COM-024-026-15-16 dated 07/01/2016 passed by Commissioner of Central Excise, Customs and Service Tax-VADODARA-II)

General Motors India Pvt Ltd

Chandrapura Industrial Estate, Halol,
Vadodara, Gujarat

.....Appellant

VERSUS

C.C.E. & S.T.-Vadodara-ii

1st Floor... Room No.101,
New Central Excise Building,
Vadodara, Gujarat- 390023

.....Respondent

APPEARANCE:

Shri Harish Bindu Madhavan, Advocate for the Appellant

Shri A Thanvi, Assistant Commissioner (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR

HON'BLE MEMBER (TECHNICAL), MR. RAJU

Final Order No. 12553/2023

DATE OF HEARING: 19.10.2023

DATE OF DECISION: 06.11.2023

RAMESH NAIR

In the present case the demand of Cenvat Credit was made for the period August 2012 to November 2012 on the following services:

- (i) Renting of immovable property
- (ii) Business support services and Business Auxiliary service
- (iii) Election & Commissioning Service
- (iv) Sponsorship services
- (v) Warehouse services
- (vi) General insurance services
- (vii) Courier services
- (viii) Telephone services
- (ix) Air Travel Agency
- (x) Pandal and Shamiyana Services

On the ground that the services are not qualified in terms of definition of input service under Rule 2(I) of Cenvat Credit Rules, 2004.

2. Shri Harish Bindumadhvan, Learned Counsel appearing on behalf of the appellant at the outset submits that all these services were used in or in relation to the manufacture of excisable goods and other business activities in relation to the goods manufactured by the appellant. He submits that this

issue has been time and again considered in various judgments and almost all the services have been held as input service. He placed reliance on the following judgments:

- Collector of Central Excise V. Rajasthan State Chemical Works 1991 (55) ELT 444 (SC)
- Doypack Systems (P) Ltd. V. Union of India, 1988 (2) TMI 61- (SC)
- M/s Delta Electronics India Pvt Ltd V. commissioner of CGST Deharadun, 2023 (7) TMI 50 – CESTAT New Delhi
- M/s Sundaram Clayton Ltd. V. Commissioner of Central Excise, Chennai-II Commissionerate, 2019 (12) TMI 228 – CESTAT Chennai
- Ramala Sahkari Clayton Ltd. V. Commissioner of Central Excise, Meerut-I, 2016 (2) TMI 902 – S.C.
- Regional Director Employees State Insurance Corporation V. High Land coffee works, 1991 (3) SCC 617
- Commissioner of Central Excise V. M/s ADF Foods Ltd., 2013 (1) TMI 607- Gujarat High Court

2.1 He also filed detailed synopsis dated 19th October, 2023 along with compilation of the legal provisions and the judgments which is taken on record.

3. Shri Ashok Thanvi, Learned Assistant Commissioner (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. On careful consideration of the submission made by both the sides and perusal of record, we find that the Adjudicating authority has denied the credit mainly on the ground that since all the subject services are not mentioned in the inclusive part of the definition, the same do not qualify as input service. As regard renting of immovable property services, the authority below denied the credit on the ground that since this service is related to renting of the premises of corporate office the same has no nexus with the manufacturing unit.

4.1 We find that as regard the contention of the Adjudicating authority that the services are not mentioned in the inclusive part of the definition the same cannot be reason for denial of the Credit as the main part of the definition i.e. any service used by a manufacturer whether directly or indirectly in or in relation to the manufacture of the final product and clearance of final goods up to place of removal is vide enough to cover almost all the services which

are used directly or indirectly in or in relation to the manufacturer of the final product.

4.2 We are of the view that since a manufacturing unit when manufacture goods there are various activities of the services which are used directly or indirectly exclusively in relation to the manufacture of the goods. It is not a case of the department that the appellant is carrying out any other activity other than the manufacture. Therefore, all the services were received by the appellant are in or in relation to the manufacture of the final product. The inclusive portion of the definition is only to avoid any misinterpretation of the definition. Otherwise the main clause of the definition is so wide which takes into its ambit all the services whether the same is mentioned in the inclusive part of the definition or otherwise. Therefore, only on the ground that the input services are not mentioned in the inclusive part of the definition cannot be a reason for denial of Cenvat Credit.

4.3 As regard the services of renting of immovable property, in this case the appellant's corporate office has taken the office premises on rent and the service Tax paid on such renting of immovable has been distributed proportionately to their two units, which is not under dispute. The contention of the Adjudicating authority is that renting of immovable property service of corporate office has no nexus with the manufacturing activity of the appellant unit.

4.4 In this regard, we find that since the appellant are exclusively involved in manufacturing operational in both their unit. The corporate office is operated only for the operation of the manufacturing of the final product. Therefore, it cannot be said that the corporate office is not used in or in relation to manufacture of final product.

4.5 We find that all the services in question have been considered in various judgments by this Tribunal and various Courts and it was held that these services are admissible input service and credit is available. The judgments in respect of each and every service involved in the present case are given as under:

- Interpretation of inclusive definition

(i) Ramala Sahkari Chini Mills Ltd. v. Commissioner of Central Excise, Meerut-1, 2016 (2) TMI 902-SUPREME COURT

(ii) Regional Director Employees' State Insurance Corporation v. High Land Coffee Works, 1991 (3) SCC 617

(iii) Commissioner of Central Excise v. M/S ADF Foods Ltd., 2013 (1)
TMI 607- GUJARAT HIGH COURT

- Admissibility of ISD Credit to be judged on the end of the ISD
 - (i) Castrol India Ltd. v. Commissioner of Central Excise, 2013 (9)
TMI 709 - CESTAT AHMEDABAD
 - (ii) CST, Ahmedabad v. Godfrey Philips India Ltd., 2008 (12) TMI 90-83 CESTAT AHMEDABAD
- The Credit availed on renting of immovable property was eligible
 - (i) Commissioner of C.Ex., Bangalore-I v. Ecof Industries Pvt. Ltd., 2012 (277) EL.T. 317 (Kar.)
 - (ii) M/S Force Motors Ltd. v. Commissioner of Central Excise, Pune-1, 9 2018 (1) TMI 1202 - CESTAT MUMBAI
- Business Support/ Auxiliary services are input services
 - (i) M/S Deepak Fertilizers & Petrochemicals Corporation Ltd. v. Commissioner of Central Excise, 2013 (4) TMI 44 - BOMBAY HIGH COURT
 - (ii) Swiss Glascoate Equipments v. CCE & ST, Vadodara-1, 2022 (3) TMI 47-CESTAT AHMEDABAD
 - (iii) Universal Medicap Ltd. v. C.C.E. & S.T., Vadodara-11, 2022 (6) TMI 818-CESTAT AHMEDABAD
- Erection and Commissioning services are input services
 - (i) Reliance Industries Ltd. v. C.C.E. & S.T. Rajkot, 2022 (4) TMI 729- CESTAT AHMEDABAD
- Sponsorship services are input services
 - (i) M/S JSW Steel Ltd. v. Commissioner of Central Excise, Customs and Service Tax - Belgaum, 2021 (12) TMI 381-CESTAT BANGALORE
 - (ii) M/S HCL Technologies Ltd. v. CCE, Noida, 2015 (8) TMI 595-CESTAT NEW DELHI
- Warehouse services are input services
 - (i) Huhtamaki PPL Ltd. v. C.C.E. & S.T., Surat, 2021 (4) TMI CESTAT AHMEDABAD
- General insurance services
 - (i) M/S. Reliance Industries Ltd. v. C.C.E. & S.T. Vadodara-I, 2019 (6) TMI 194-CESTAT AHMEDABAD
- Courier services are input services

(i) Nilkamal Ltd. v. C.C.E & S.T., 2022 (11) TMI 497 CESTAT AHMEDABAD

- Telephone services are input services

(i) Gujarat Borosil Ltd. v. Commissioner of Central Excise, 2019 (8) TMI 202-CESTAT AHMEDABAD

(ii) Essel Propack Ltd. v. CGST & CX, Thane, 2018 (8) TMI 78-CESTAT MUMBAI

- Air Travel Agency services are input services

(i) Duravit India P. Ltd. v. C.C.E, 2022 (5) TMI 1114 CESTAT AHMEDABAD.

(ii) M/S. Inox India P. Ltd. v. C.C.E. & S.T., Vadodra-II, 2019 (9) TMI 1642 CESTAT AHMEDABAD

- Pandal and Shamiyan services are input services

(i) Reliance Communication Ltd. v. Commissioner of Service Tax, Mumbai, 2018 (5) TMI 488- CESTAT MUMBAI

From the above decisions, in respect of each and every services involved in the present case the issue is no longer res-Integra. Accordingly, we are of the considered view that all the services are admissible input service qualify under the definition of input service provided under Rule 2(l) of the Cenvat Credit Rules, 2004. Therefore, the appellant are clearly entitled for the Cenvat Credit on such services.

5. Accordingly, the impugned order is set aside, appeal is allowed.

(Pronounced in the open court on 06.11.2023)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)