

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.

Court-III

Appeal No. ST/1281/2011-Cus.

(Arising out of OIA No. 38/ST/Appeal/CHD-1/2010 dated 03.05.2011 passed by Commissioner (Appeals) of Central Excise, Chandigarh)

Date of Hearing: 05/06/2015

Date of Pronouncement: 17/06/2015

1. Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?
2. Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?
3. Whether their Lordships wish to see the fair copy of the order?
4. Whether order is to be circulated to the Department Authorities?

M/s Steel Strips Wheels Ltd.

Appellant

Vs.

C.C.E., Chandigarh

Respondent

Appearance:

Present for the Appellant: Ms. Priyanka Goyal , Advocate

Present for the Respondent: Shri G.R. Singh, AR

Coram: Hon^{ble} Smt.Sulekha Beevi C.S., Member (Judicial)

Final Order No.51907/2015

Per: Sulekha Beevi C.S.

The issue posing for consideration in this appeal is whether the credit of service tax paid on the service of the Private Placement of Shares is admissible as input service credit as per the Cenvat Credit Rules.

2. Breif facts are as under:-

The appellants are engaged in the manufacture of Automotive Wheels falling under chapter 87 of the CETA, 1985. The appellants availed the service of M/s. MAPE Advisory Group Pvt. Ltd for raising finance by way of Private Placement of Share of the company with M/s New Vermon Advisory Services Ltd. as the appellant was in need of finances for implementing Automotive Wheels Line Project in their factory. M/S MAPE Advisory Group Private Limited charged professional/brokerage fee amounting to Rs.26,40,000/- for their service and service tax amounting to Rs.2,69,280/- (including education cess) was paid . The appellants availed the credit of the service tax paid to M/s MAPE Advisory Private Limited as an input service credit as per the provision of rule 2 (I) of the Cenvat credit rules. A show cause notice was issued to the appellants denying the credit on the ground that financial services availed by appellants for disposal of shares are not covered under the definition of "input services". The appellants defended the show cause notice submitting that the definition of "Input Services" as provided Under Rule 2 (I) included banking and financial services which are services used in relation to the business of manufacture. They also contended that the demand is hit by the bar of limitation. The adjudicating authority held against the appellants which was confirmed by the Commissioner (Appeals). Aggrieved by the order of the Commissioner (Appeals) the appellant has filed this appeal.

3. On behalf of the appellant, the Ld. counsel MS. Priyanka Goyal submitted that at the relevant time the company was implementing the Automotive Wheel Line Project for which finance was required. The services of M/s MAPE Advisory Group (P) Ltd was availed for raising finances by way of private placement of shares. This activity undertaken by the appellants relates to their business as the capital raised by private placement of shares is utilized in the business of manufacture. That the adjudicating authority has failed to appreciate the definition of input service in its right perspective. She relied on the following judgements in Semco Electric Pvt. Ltd Vs CCE, Pune 2012 (276) E LT 94 (TRI ☐ Mumbai) and 2013 (30) ST are 572 (TRI ☐ Mumbai), Aditya Birla Nuvo Ltd Vs CCE 2009 (14) ST are 304 (TRI - Ahmedabad).

4. On behalf of revenue it was submitted that the activity of private placement of shares is not an activity used by the appellant directly or indirectly or in relation to the manufacture of the final products. That therefore Cenvat credit is not admissible to such services. He submitted that private placement of shares does not find mention in the definition of input services and therefore Cenvat credit cannot be allowed on such services.

5. I have carefully considered the rival submissions. It is the case of the appellant, that they raised capital by private placement of Shares, for the purpose of implementing a new project, the Automotive Wheel Line Project in their factory. The contention of the revenue that such financial services rendered to the appellant for the purpose of raising capital is not related to manufacture directly or indirectly cannot be accepted. The definition of "input service" is not restricted being limited to services which are directly linked to the manufacturing activity. But the definition has a wide ambit and covers services which are relating to business activities of manufacture. In Aditya Birla Nuvo Ltd Vs CCE (supra) it was held that merger charges are covered in the category of services of financing and Cenvat credit is admissible for the same. Therefore I am of the view that the service of private placement of shares for raising capital is an input service and credit on the service is to be allowed.

6. In view of the above the impugned order is set aside with consequential relief to the appellant. The appeal is allowed.

(Pronounced on 17/06/2015)

(Sulekha Beevi C.S.)
Member (Judicial)