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- [Sale of spare parts and lubricants during servicing or repairing of motor vehicles by Authorized Service Station is not chargeable to Service tax](#)

Tanya Automobiles Pvt. Ltd. Vs. Commissioner of Central Excise and Service Tax, Meerut – I [2016-TIOL-166-CESTAT-ALL]

Facts:

Tanya Automobiles Pvt. Ltd. (“**the Appellant**”) was an Authorized Service Station of motor vehicles providing servicing or repairing services. The Appellant was showing the sale of spare parts and lubricants separately in invoice on which VAT/Sales tax has been paid and on service components & labour charges, Service tax was paid. The Department alleged that spare parts or consumables are consumed during the servicing of the motor vehicles and therefore Service tax is to be discharged on entire amount of billing including the value of spare parts.

Period Involved: October, 2006 to December, 2011

Held:

The Hon’ble CESTAT, Allahabad relying upon the judgment in the case of ***Samtech Industries Vs. Commissioner of Central Excise, Kanpur [2014 (4) TMI 995 - CESTAT NEW DELHI]***, which was subsequently upheld by the Hon’ble High Court of Allahabad ***[2014 (8) TMI 1023 - ALLAHABAD HIGH COURT]*** held that in the instant case, there is documentary proof specifically indicating value of the goods supplied/sold on which VAT/Sales tax has been paid, hence the demand of Service tax from the Appellant for the value of goods supplied during repair does not appear sustainable.

- [Services by way of hiring of vehicles to be used by employees \(a\) for their movement within refinery premises or \(b\) for outward travelling in connection with business, is eligible for input service credit](#)

Principal Commissioner Vs. Essar Oil Ltd. [2016 65 taxmann.com 5 (Gujarat)]

Facts:

Essar Oil Ltd. (“**the Respondent**”) has availed Cenvat credit of Service tax paid on various services, such as 'Rent-a-Cab', 'Tour Operators', and 'Travel Agent' hired by them (“**the Impugned input services**”) which were used by their employees for their movement within the refinery premises or for outward travelling in connection with business. However, the Department denied the Cenvat credit on the ground that the impugned input services cannot be described as having been used in or in relation to manufacturing and clearances of final products.

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Held:

The Hon'ble High Court of Gujarat has held that cost of the impugned input services was borne by the Respondent which also formed a part of the value of the goods manufactured. As per Rules 2(l) of the Credit Rules, the term 'input service' would mean any service used by the manufacturer directly or indirectly in or in relation to manufacture of final products and clearance of final product from the place of removal. Hence, the Services were 'input service' and Service tax paid thereon would be available to the Respondent by way of Cenvat credit.

Our Comments:

Here, we would like to draw your attention towards the definition of the term 'input services' as was prevalent prior to April 1, 2011, which specifically mentioned **activities relating to business** under 'includes-clause'. However, post facto April 1, 2011, definition of the term 'Input service' given under Rule 2(l) of the Credit Rules was substituted vide Notification No. 3/2011-CE(NT) dated March 1, 2011, *inter alia*, deleting the phrase 'activities relating to business'. Thus, limiting the wide scope of the term 'input services'. In other words, effective from April 1, 2011, one has to be very careful while determining eligibility of any Input service under Rule 2(l) of the Credit Rules.

Further, effective from April 1, 2011, scope of wide interpretation of the term 'input service' has been further curtailed/ limited by inserting exclusion-clause in the stated definition, which, *inter alia*, **excludes services provided by way of renting of a motor vehicle, in so far as they relate to a motor vehicle which is not a capital goods under Clause (B).**

Hope the information will assist you in your Professional endeavours. In case of any query/ information, please do not hesitate to write back to us.

Thanks & Best Regards,

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