

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST ZONAL BENCH : AHMEDABAD**

REGIONAL BENCH - COURT NO. 3

EXCISE Appeal No. 11905 of 2019-SM

[Arising out of Order-in-Original/Appeal No VAD-EXCUS-001-APP-678-2018-19 dated 29.03.2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]

Milestone Preservatives Pvt. Limited

.... Appellant

123/P. Padra- Jambusar Road, Village: Gavasad, Tal
Padra VADODARA, GUJARAT

VERSUS

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

.... Respondent

1st Floor, Central Excise Building, Race Course Circle,
Vadodara, Gujarat - 390007

APPEARANCE :

None for the Appellant

Shri G. Kirupanandan, Superintendent (AR) for the Respondent

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

DATE OF HEARING : 17.05.2022

DATE OF DECISION : **20.05.2022**

FINAL ORDER NO. A/10525 / 2022

RAMESH NAIR :

The issue involved is whether the appellant is entitled for Cenvat credit in respect of Input Services namely construction services, fee for architectural structural works for factory plant building, group Medi-claim Insurance, Group personal accident insurance, insurance, motor car/vehicle insurance, labour charges for installation, testing & commissioning of components of VRV System (Centrally AC system) in the office building etc.

2. When the matter was called, none appeared on behalf of the appellant despite notices. Therefore, the appeal is taken up for disposal.

3. Shri G. Kirupanandan, learned Superintendent (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order. He submits that the Construction and Architectural services are related to construction which is excluded in the definition of Input Services, therefore, the same is not admissible.

4. I have considered the submissions made by learned Authorised Representative and perused the record. I find that right from beginning the appellant is taking a stand that construction and architectural services are used for repair and renovation of factory. This submission of the appellant was not effectively rebutted by the Revenue and the Cenvat credit was denied by the lower authorities on the ground that construction service is excluded and appearing in the exclusion clause which were brought in the statute vide Notification No. 3/2011-CE (NT) dated 01.03.2011. On this basis the credit on Construction and Architectural services was denied. The credit in respect of group Medi-claim Insurance, Group personal accident insurance, insurance, motor car/vehicle insurance etc. were denied on the ground these services have no nexus with the manufacturing of excisable goods.

As regards the Construction and Architectural services, I find that these services were used for repair and renovation work in the existing factory. As held in various judgments only such construction services which are used in initial setting up of factory are excluded. However, in the present case, the factory was already existing and this construction and architectural service were used for repair and renovation of the existing factory plant. As per the inclusion clause of definition of Input Services, repair and renovation/ modernization is specifically included in the inclusion clause. Therefore, construction or architectural service if used for initial set

up of plant will only be ineligible for Cenvat credit. Whereas as per facts in the present case, the services were used for repair and renovation hence, the credit in terms of inclusion clause of Input Service is admissible.

5. As regards the other services such as group Medi-claim Insurance, Group personal accident insurance, insurance, motor car/vehicle insurance etc., I find that these are the services as mandated as per the factory Act for the safety of employees. Therefore, this cannot be said that the services were used for personal use. Every industry under statutory norms required to take group Medi-claim Insurance, Group personal accident insurance, insurance, motor car/vehicle insurance etc. from the insurance companies for which the payment of premium is paid by the assessee and the same is accounted in their books of accounts as expenditure. Therefore, all these services are in or in relation to manufacture of final products and under the business activities of the assessee. All the services have been considered as admissible Input services in various judgments, some of the judgments are cited below:-

(a) CC & CCE, Guntur vs. Cholayil (P) Limited - 2013 (31) STR 29 (Tri.).

(b) Lowe's Services India Pvt. Limited vs. CCT, Bangalore - 2021 (052) GSTL 0070 (Tri. Bang.)

(c) H.E.G. Limited vs. CCE, Raipur - 2011 (21) STR 300 (Tri. Del.)

(d) Mafatlal Industries Limited vs. CCE & ST, Ahmd. - 2020 (43) GSTL 562 (Tri. Ahmd.)

6. From the above judgments, it can be seen that Cenvat credit is allowed on Insurance Services. As per my above observation and findings, I am of the view that appellant is entitled for the Cenvat credit on such services. However, the appellant have admittedly paid an amount of Rs. 2,29,752/- which stands upheld. The appellant has only disputed the amount of Rs. 5,72,011/-. Therefore the same along with penalty and interest are set-aside. As regards the interest and penalty in respect of amount admittedly paid for Rs. 2,29,752/-, I observe that since the appellant has not utilized the said amount, no interest and penalty corresponding to said amount is payable. Accordingly, the impugned order stand modified to the above extent. The appeal is partly allowed in the above terms.

*(Pronounced in the open court on **20.05.2022**)*

(Ramesh Nair)
Member (Judicial)

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