



आयुक्त का कार्यालय, (अपीलस)  
Office of the Commissioner,



केंद्रीय जीएसटी, अहमदाबाद आयुक्तालय

Central GST, Appeal Commissionerate- Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

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क फाइल संख्या (File No.): V2(17)154 to 157/North/Appeals/ 2018-19 / 10474 to 10478  
ख अपील आदेश संख्या (Order-In-Appeal No.): AHM-EXCUS-002-APP-233 to 236-18-19  
दिनांक (Date): 07/03/2019 जारी करने की तारीख (Date of issue): 09/05/2019  
श्री उमा शंकर, आयुक्त (अपील) द्वारा पारित  
Passed by Shri Uma Shanker , Commissioner (Appeals)

ग \_\_\_\_\_ आयुक्त, केंद्रीय उत्पाद शुल्क, (मंडल-1), अहमदाबाद उत्तर, आयुक्तालय द्वारा जारी  
मूल आदेश सं \_\_\_\_\_ दिनांक \_\_\_\_\_ से सृजित  
Arising out of Order-In-Original No 07 to 11/AC/Demand/18-19 Dated: 08/10/2018  
issued by: Assistant Commissioner-Central Excise (Div-I), Ahmedabad North,

घ अपीलकर्ता/प्रतिवादी का नाम एवम पता (Name & Address of the Appellant/Respondent)

M/s Global Energy Food Industries

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person an aggrieved by this Order-in-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way:

भारत सरकार का पुनरीक्षण आवेदन :  
Revision application to Government of India:

(1) (क) (i) केंद्रीय उत्पाद शुल्क अधिनियम 1994 की धरा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परंतुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली-110001 को की जानी चाहिए।

A revision application lies to the Under Secretary, to the Government of India, Revision Application Unit, Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi-110001, under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid:

(ii) यदि माल की हानि के मामले में जब हानि कारखाने से किसी भंडारगार या अन्य कारखाने में या किसी भंडारगार से दूसरे भंडारगार में माल ले जाते हुए मार्ग में, या किसी भंडारगार या भंडार में चाहे वह किसी कारखाने में या किसी भंडारगार में हो माल की प्रकिया के दौरान हुई हो।

In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse

(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामले में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।



(b) In case of rebate or duty or excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल है।

(c) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

(घ) अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो इयूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (न.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec. 109 of the Finance (No.2) Act, 1998.

(१) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. के मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(२) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख रुपये से ज्यादा हो तो रुपये 1000/- फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs. 200/- where the amount involved in Rupees One Lac or less and Rs. 1000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील :-  
Appeal to Customs, Excise & Service Tax Appellate Tribunal:-

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-  
Under Section 35B/35E of CEA, 1944 an appeal lies to:-

(क) वर्गीकरण मूल्यांकन से सम्बन्धित सभी मामले सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण की विशेष पीठिका वेस्ट ब्लॉक न. 3. आर. के. पुरम, नई दिल्ली को एवं  
The special bench of Customs, Excise & Service Tax Appellate Tribunal of West Block No. 2, R.K. Puram, New Delhi in all matters relating to classification valuation and



रेखांकित बैंक ड्राफ्ट के रूप में संबंध की जाये। यह ड्राफ्ट उस स्थान के किसी नामित सावधानेक क्षेत्र के बैंक का शाखा का हो जहाँ उक्त न्यायाधिकरण की पीठ स्थित है।

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public sector bank of the place where the bench of the Tribunal is situated.

- (3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner not withstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

- (4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूचि-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

- (5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

- (6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇒ यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील' दाखिल करने के लिए पूर्व शर्त बना दिया गया है।

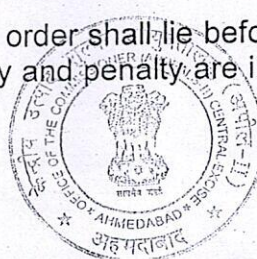
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस सन्दर्भ में इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."



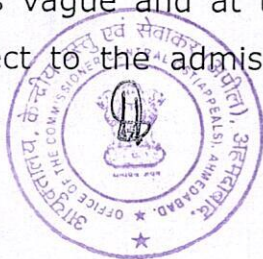
ORDER-IN-APPEAL

This appeal has been filed by M/s Global Energy Food Industries, 173, GIDC Estate, Opp. Telephone Exchange, Naroda, Ahmedabad-382330 (hereinafter referred to as "the appellant") against Order-in-Original No. 07 to 11/AC/Demand/18-19 dated 10.08.2018 (hereinafter referred to as "the impugned order") passed by the Assistant Commissioner of CGST, Division-I (Naroda), Ahmedabad-North (hereinafter referred to as "the adjudicating authority").

2. The facts of the case in brief are that the appellant is engaged in excisable goods viz. biscuits and confectionery falling under chapters 19 & 17 of CETA, 1985. Based on EA 2000 Audit, five show cause notices dated 12.12.2014, 29.07.2015, 09.03.2016, 26.10.2016 and 23.08.2017 for the period of December-2012 to July-2014, August-2014 to March-2015, April-2015 to September-2015, October-2015 to June-2016 and July-2016 to June-2017 respectively were issued to the appellant for denying CENVAT credit amounting to Rs. 69,17,468/- in respect of input service credit on services viz. (i) C & F; (ii) THC; (iii) Documentation charges; (iv) Outward transportation of goods used for export of their goods; (v) CA/ Retainership & telephone services consumed at head office located at Mumbai; (vi) Membership fees and (vii) Travelling charges. The grounds for denying the said credit is that the input services availed by the appellant are not falling under definition of "Input Service" as defined under Rule 2(I) of CENVAT credit Rules, 2004 (CCR). The show cause notices also proposed for recovery of interest and imposition of penalty under 15 (2) of CCR. Since all the above show cause notices were periodical and involved the similar issues, they came to be adjudicated vide the common impugned order in which the adjudicating authority has confirmed the demand with interest in respect of chartered accountant/ retainer ship/ Professional fee services, telephone bills pertaining to the Mumbai head office, travel agent, air ticket charges, hotel charges, Rent-a-Cab service, marine insurance and video making charges paid in relation to making videos of factory, production process etc amounting to Rs. 4,10,940/-. He also imposed penalty of Rs. 1,38,210/-.

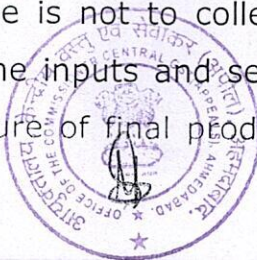
3. Being aggrieved by the impugned order, the appellant has filed the instant appeal on the grounds that:

- a) The show cause notice is vague and at the time of audit, they had given reasons with respect to the admissibility of cenvat credit but



they have not been discussed in the show cause notice. They rely on the case law of SBQ Steels Ltd. vs. Commissioner of Customs, C.Ex. & ST, Guntur - 2014 (300) ELT-185 (AP), CCE vs. Shemco India Transport - 2011 (24) STR-409 (Trib.Del.), Amit Food vs. CC- 2005 (190) ELT-433 (SC);

- b) The word "manufacturing activity" used in the definition of "input services" has to be given wider meaning and the same need not be limited to the apparent aspect of manufacturing activities, but the same goes beyond apparent activities pertaining to manufacture. The definition of input services also encompasses words like "directly or indirectly" and "in relation to" which expands the meaning of the term input services beyond the normal constrained interpretation. Further the services on which cenvat credit has been availed do not fall in the exclusion clause of the definition. Hence input service in dispute falls in the definition of input service prevailing for relevant periods;
- c) The cenvat credit is admissible even if the invoices received in the name of the other branches/ head office whether registered or not. They rely on the case law of Commissioner of C.Ex., Salem vs. Chemplast Sanmar Ltd - 2007 (208) ELT-208 (Tri. -Chen.), Gail India Ltd. vs. Commissioner of C.Ex. & ST, LTU, New Delhi - 2016 (1) TMI-299 (Tri.-Del.), Manipal Advertising Services Pvt. Ltd. vs. CC.Ex., Mangalore - 2009 (10) TMI-434 (CESTAT-Bangalore), Portal India Wireless Solutions Pvt. Ltd. vs. CST, Bangalore - 2011 (09) TMI-450 (Karnataka HC), Allspheres Entertainment Pvt. Ltd. vs. CC.Ex., Meerut - 2015 (8) TMI-953 (CESTAT-Del.);
- d) they submit that the 'means' part of the definition is widely worded. The words "directly or indirectly" and "in relation to" further wider the scope of the definition. They seek reliance on the case law of CCE vs. Rajasthan State Chemical Works - 1999 (55) ELT-444 (SC), Doypack Systems (P) Ltd. vs. UOI - 1988 (36) ELT-201 (SC), CCE vs. East End Paper Industries Ltd. - 1989 (43) ELT-201 (SC), CCE, Pune-II vs. Raymond Zambiti Pvt. Ltd.- 2010 (18) STR-734 (Trib.Mum.), M/s ITC Ltd. -2012-TIOL-199-HC-AP-ST, VMT Spinning Co. Ltd.- 2008 (232) ELT-169 (A.A.R);
- e) the main purpose of the cenvat credit rules, 2004 is to avoid cascading effect and the purpose is not to collect duty on duty. Therefore the excise duty paid on the inputs and service tax paid on input services used in the manufacture of final product are given as credit and this



purpose is to be interpreted on the basis of language used in the rules.

They rely on the case laws of Ichalkaranji Machine (P) Ltd. vs. CCE – 2004 (174) ELT-417 (SC), DaiIchiKarkaria Ltd. vs. CCE – 1996 (81) ELT-676 (T-LB), Jayashree Industries vs. CCE – 1993 (63) ELT-492 and Heal Well Pharmaceuticals Ltd. vs. CCE – 1994 (72) ELT-446;

- f) That the cenvat and service tax are value added taxes and consumption taxes and the ultimate consumer must bear them as explained by the CBEC Circular No. 80/10/2004-ST dtd. 17.09.2004 and Circular No. 56/5/2003-ST dtd. 25.04.2003;
- g) There is no evidence that they have suppressed the information from the department and therefore extended period has been invoked. They have disclosed the facts in the relevant excise returns about availment of cenvat credit. Even otherwise, there is no statutory obligation to disclose. They rely on the case laws of Pushpam Pharmaceuticals vs. CCE – 1995 (78) ELT-401 (SC), Apex Electricals vs. CCE – 1992 (61) ELT-413 (Guj.) and Unique Resin Industries vs. CCE – 1995 (71) ELT-861 (T);
- h) That when in view of the above submissions, the demand of central excise duty is not sustainable, interest and penalty cannot be imposed.

4. Personal Hearing in the matter was held on 29.01.2019. Shri Pratik Trivedi, Chartered Accountant appeared for the same and reiterated the grounds of appeal.

5. I have carefully gone through the facts of the case and submissions made by the appellant in the appeal memorandum as well as at the time of personal hearing. The issue to be decided in the matter is relating to admissibility of input service credit in respect of following input services, availed by the appellant during various periods covered in the four show cause notices have been denied.

- [i] Services of Chartered Accountant, retainership and professional fee the invoices of which were in the name of their Mumbai head office and the appellants could not produce any evidence of distribution of the cenvat credit via ISD challans;
- [ii] services of telephone bills the invoices of which were in the name of their Mumbai head office;
- [iii] services of travel agent, air travel charges, hotel charges, Rent-a-cab charges etc.;
- [iv] marine insurance;
- [v] video making charges for getting ISO certification;



6. The adjudicating authority has denied cenvat credit on all the above input services mainly on the grounds that none of the said services fall under the definition of "Input service" as defined under Section 2(I) of CCR 2004 and that the invoices were not in the name of the appellant unit in ahmedabad. The invoices were in the name of their head office at Mumbai. On other hand, the appellant has contended that the credit in question in respect of above services is eligible to them as they utilized the same directly or indirectly in the course of manufacturing activity and business activity.

7. During the relevant period under dispute, Rule 2(I) of CCR 2004 defined "input service" as under:

*(I) "input service" means any service, -*

*(i) used by a provider of [output service] for providing an output service; or*

*(ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal,*

*and includes services used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal;*

*[but excludes], -*

*[(A) service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act (hereinafter referred as specified services) in so far as they are used for -*

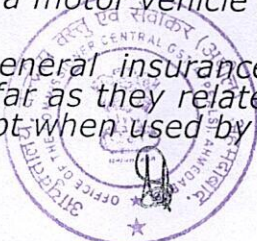
*(a) construction or execution of works contract of a building or a civil structure or a part thereof; or*

*(b) laying of foundation or making of structures for support of capital goods,*

*except for the provision of one or more of the specified services; or]*

*[(B) [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; or*

*[(BA) service of general insurance business, servicing, repair and maintenance, in so far as they relate to a motor vehicle which is not a capital goods, except when used by -*



(a) a manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person; or

(b) an insurance company in respect of a motor vehicle insured or reinsured by such person; or]

(C) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee;]

The definition of "input service" consists of categories viz. [i] services which are directly or indirectly used in or in relation to the manufacture of final products; [ii] services which are used for clearances of the final products up to the place of removal; [iii] inclusive part of services such as used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal; and [iv] and exclusive part of service such as service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act (hereinafter referred as specified services) in so far as they are used for (a) construction or execution of works contract of a building or a civil structure or a part thereof; or (b) laying of foundation or making of structures for support of capital goods. Therefore, the services which were taxable and used by the manufacturer in relation to the manufacture of final product and clearance of the final product up to the place of removal would be eligible as 'input services'. After the final products are cleared from the place of removal, there would be no scope for subsequent use of service to be treated as input service. Services beyond the stage of manufacturing and clearance of the goods cannot be considered as input services. Thus, for the purpose of ascertaining the admissibility of CENVAT credit on services, the nature of service availed should be in consonance with the above parameters.

8. Now, I take the eligibility of CENVAT credit in respect of above referred service utilized by the appellant.



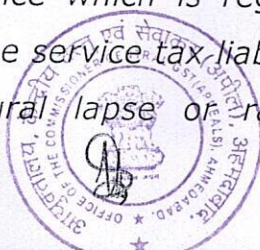


8.1 services of chartered accountant / retainership / professional fee and telephone services where invoices were in the name of head office at Mumbai: The appellant has contended that the purpose of chartered accountant are for the purpose of auditing the books of the accounts of the company which is a statutory requirement under the various laws. There is no denying of the fact that the services of chartered accountant / retainership / professional fee are a requirement of various laws and are mandatory but in the instant case, the credit has not been denied to them on this ground. I find that the credit on these services has been denied because the invoices for these services were in the name of their Mumbai head office. I find that the appellant have given various case laws in their support that the cenvat credit is admissible even when the invoices are in the name of head office. I have carefully perused all the case laws quoted by the appellant. I find that in the case of MANIPAL ADVERTISING SERVICES PVT. LTD. Vs. C.C.E., MANGALORE cited in 2010 (19) S.T.R. 506 (Tri. - Bang.) in which it has been held and I quote the relevant part as under:

*"7. If a person is discharging Service tax liability from his registered premises, the benefit of Cenvat credit on the Service tax paid by the service providers cannot be denied to the appellant, only on the ground that the said invoices are in the name of branch offices..."*

I further find that the Tribunal in the case of ALLSPHERES ENTERTAINMENT PVT. LTD. Vs. COMMR. OF C. EX., MEERUT cited at 2016 (41) S.T.R. 104 (Tri. - Del.) has also held as under:

*"5. In the show cause notice, there is no allegation that the input services were not received/utilized by the appellant. So also there is no dispute that such input services were not properly accounted. In the absence of any such dispute regarding availment of services and their utilization for payment of service tax or proper accounting of the same, the denial of Cenvat credit of service tax paid by Nainital office of the appellant on the sole ground that the invoices issued are in the name of the appellants' unregistered office at Delhi is unjustified. The head office which is registered with the Department has discharged the service tax liability. The defect in the invoices are only procedural lapse or rather a curable defect. In such*



*circumstances, I am of the view that denial of Cenvat credit by the authorities below is not justified."*

The tribunal in the above case has allowed the cenvat credit when substantial requirements have been met and merely procedural requirements are not fulfilled. Such situation cannot be allowed to deny the substantial benefits to the appellant. I therefore hold that the cenvat credit is admissible to the appellant for services of chartered accountant / retainership / professional fee and telephone services. I therefore allow the appeal in this regard and the impugned order stands set aside to that extent.

8.2 Services of travel agents, air travel charges, hotel charges, Rent-A-Cab charges: The appellant has contended that the said services have been used by their employees for the business related activities and such activities are inseparable from the business of the appellants and travelling is indispensable for running business smoothly and are directly relating to the manufacturing of activity. I find that the Hon'ble Supreme Court in case of M/s Ramala Sahkari Chini Mills Ltd -2010 (260) E.L.T. 321 (S.C.) has held that *"Goods to fall under 'inputs' as per said decision must be (i) used in or in relation to manufacture of final product whether directly or indirectly, and whether contained in final product or not; (ii) covered within six enumerated categories in Rule 2(g) of Cenvat Credit Rules, 2002 and (iii) used within factory of production - First and third parts namely specific part and location of use to be satisfied for goods to be inputs - Supreme Court's ruling relating to confining goods only to inclusive part of definition, that is to the six specified categories, not agreed with - Prima facie, restricting definition of inputs to six categories not intended by legislature - Phrase "and includes" not intended by legislature to impart restricted meaning to definition of inputs - Interpretation of such term in Maruti Suzuki case requires reconsideration by Larger Bench."* Therefore, the eligibility of credit will be depending upon the basis of services having nexus with business of manufacture of final products.

The definition of "input service" supra covers services which are directly or indirectly used in or in relation to the manufacture of final products; the services which are used for clearance of the final products up to the place of removal; and includes services used in relation to modernization, renovation or repairs of a factory, premises of provider of



output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal. Therefore, I find that the inclusive part of the definition of "input" is restricted to the inputs used in or in relation to the manufacture of final products, whereas the inclusive part of the definition of "input service" extends to services used prior to/during the course of/after the manufacture of the final products. Accordingly, the services having nexus or integral connection with the manufacture of final products as well as the business of manufacture of final product would qualify to be input service under Rule 2(I) of CCR. In view of above discussion, I find that the services mentioned in para 8.2 above is directly or indirectly have nexus with the manufacture of the final products of the appellant as well as the business of manufacture of final products. In the circumstances, I do not find any justification for denying the credit availed by the appellant in respect of such services, especially, the adjudicating authority has not categorically denied the credit by stating that such services have no nexus with the manufacturing activity. Therefore, I allow the credit in respect of said services mentioned above.

8.3 Cenvat credit on rent-a-cab service: Consequent to the amendments made in the definition of input service vide Notification No. 3/2011-CE(NT) dated 1.3.2011, effective from 1.4.2011, rent-a-cab service was specifically excluded from the definition of input service. Vide letter F. No. 334/3/2011-TRU dated 28-2-2011, the changes consequent to the introduction of Finance Bill, 2011 was clarified. The relevant extracts, applicable to the present dispute, is reproduced below for ease of reference:

#### B. Input Service

1.7 The distinction between goods and services is diminishing and many goods can be received as services. Accordingly the definition of "input service" has been aligned with the definition of "input" such that goods that do not constitute "input" do not qualify as "input service".

1.8 Similarly services relating to motor vehicle i.e. rent-a-cab, use of tangible goods, insurance or repair of vehicle shall not constitute an "input



service' except in respect of output services where credit on motor vehicle is permitted as "capital goods". (emphasis supplied)

Further, on the issue of availability of credit on services received before 1.04.2011, on which credit was not available in view of Not. No. 3/2011-CE(NT), *ibid*, it was clarified vide Circular No. 943/4/2011-CX., dated 29-4-2011, as follows:

S. No.	Issue	Clarification
12.	Is the credit available on services received before 1-4-11 on which credit is not allowed now? e.g. rent-a-cab service?	The credit on such service shall be available if its provision had been completed before 1-4-2011.

It is therefore, clear that input service credit in respect of rent a cab services is not available with effect from 1.4.2011, in view of the changes effected in the definition of input service made effective through notification, *ibid*. In view of above discussion, I disallow the credit availed by the appellant in respect of Rent-a-Cab Service.

8.4 cenvat credit on marine insurance: the cenvat credit on marine insurance has been denied on the ground that it has been taken beyond the place of removal and by no stretch of imagination can it be classified as an input service. I find that marine insurance is an integral part of export process and for protection against any pecuniary loss. I therefore hold that the cenvat credit on marine insurance is admissible and accordingly I allow the appeal in this regard. I find support from the case law of 2016 (41) S.T.R. 646 (Tri. - Chennai) in the case of ALSTOM T & D LTD. Vs. Commissioner, LTU, Chennai in which it has been held that "*It does not appeal to common sense as to why insurance is not integral to export to protect the property for the reason that one would not prefer to cause prejudice to him. Taking up marine insurance policy not being in dispute as well as export not in dispute.*"



8.5 Cenvat credit on video making charges paid in relation to making video of factory, production process etc.: I find that the cenvat credit has been denied on video making charges paid in relation to making video of factory, production process etc. I find that in the impugned order while dealing with this issue, it has been stated that the show cause notice itself alleged that these services were used for obtaining ISO certification for award and for export promotion. Now the definition of the input service clearly speaks about this aspect and I reproduce the relevant part as under:

*"(I) "input service" means any service,-  
 (i) used by a provider of output service for providing an output service; or  
 (ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products, upto the place of removal, and includes services used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and **quality control**, coaching and training, computer networking, **credit rating**, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal;" (emphasis supplied)*

From a plain reading of the definition of the input services which are eligible for availing cenvat credit, it is clear that input services related to quality control and credit rating are eligible for availment of cenvat credit and there is no doubt that ISO is a quality control mechanism and is awarded to the concerns which conform to the set standards of quality control. I therefore find no reason why credit should be disallowed on this issue. I therefore hold that the cenvat credit is admissible on this service and the impugned order stands set aside as far as it relates to denial of cenvat credit on this service.

9. As regards penalty imposed, I find that the adjudicating authority has imposed penalty under Rule 15 (2) of CCR read with Section 11 AC (1)(b) of the Central Excise Act, 1944. The appellant has contended that they have not suppressed the facts with an intention to evade the duty. As regards the cenvat credit wrongly availed by the appellant in respect of the Rent-a-Cab



services detailed above, penalty is required to be imposed on them as they have failed to discharge their responsibility by contravened the provisions of CCR. In the impugned order, the adjudicating authority has widely discussed the circumstances under which the penalty was imposed and no interference required in respect of penalty imposed on the credit wrongly availed against the service viz Rent-a-Cab Service. Therefore, I uphold the same as is in proportion to the disallowed credit.

10. In view of above discussion, I partly allow the appeal. The appeal stands disposed of accordingly.

11. The appeal filed by the appellant stand disposed off in above terms.

अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

*उमा शंकर*

(उमा शंकर)

प्रधान आयुक्त (अपील्स)  
 केंद्रीय कर, अहमदाबाद  
 दिनांक: . . .2019

सत्यापित

*सत्यापित*  
 (धर्मद्र उपाध्याय)  
 अधीक्षक (अपील्स),  
 केंद्रीय कर, अहमदाबाद



By RPAD.

To,  
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 173, GIDC Estate,  
 Opp. Telephone Exchange,  
 Naroda,  
 Ahmedabad-382330

Copy to:-

1. The Chief Commissioner, Central Tax, Ahmedabad Zone .
2. The Commissioner, Central Tax, Ahmedabad North,
3. The Asstt. Commissioner, System, Central Tax, Ahmedabad North
4. The Asstt. Commissioner, CGST, Division-I (Naroda), Ahmedabad North
5. Guard File.
6. P.A. .