

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.03.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A. NO. 3346 OF 2010

Commissioner of Central Excise
and Service Tax
Large Taxpayer Unit
1775, Jawaharlal Nehru Inner Ring Road
Anna Nagar West Extension
Chennai 600 101. ... Appellant

- Vs -

M/s.Rane TRW Steering Systems Ltd.
Boothakudi Village
Viralimalai 621 316. ... Respondent

Appeal filed under Section 35-G of the Central Excise Act against the order dated 26.4.2010 passed by the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, Chennai, made in Final Order No.478/2010.

For Appellant : Mr.Ravi Ananthapadmanabhan

For Respondent : Mr. S.Jaikumar

ORDER

(DELIVERED BY R.SUDHAKAR, J.)

Aggrieved by the order of the Tribunal in allowing the appeal filed by the assessee/respondent the appellant/Revenue is before this Court by filing the present appeal.

2. The respondent/assessee, in this case, are manufacturers of parts of power steering systems, test bench and parts of test bench falling under Chapters 87 and 90 of the first schedule to the Central Excise Tariff Act, 1985. In terms of the Cenvat Credit Rules, 2004, the assessee is availing credit of duty paid on various inputs and capital goods. The assessee had availed credit of service tax paid on housekeeping and gardening services. Since the assessee was not eligible to avail credit of service tax on these services, a show cause notice was issued by the Deputy Commissioner of Central Excise, Tiruchirappalli II Division, proposing to recover credit of Rs.3,30,486/=. After due adjudication, the Deputy Commissioner disallowed the credit and also imposed penalty.

3. Against the said order, the assessee preferred appeal to the Commissioner (Appeals). The said appeal was dismissed by the Commissioner (Appeals) against which the assessee filed an appeal before the Tribunal. The Tribunal, following the decision of the Co-ordinate Bench in the case of ISMT Ltd. reported in 2010-TIOL-27 and Millipore India Ltd. reported in 2009-TIOL-490, allowed the appeal. Aggrieved by the said order of the Tribunal, the appellant/Revenue is before this Court by filing the present appeal.

4. Heard the learned counsel appearing for the appellant/Revenue and the learned counsel appearing for the respondent/assessee.

4. Vide order dated 23.12.2010, this Court admitted the appeal on the following substantial question of law :-

"i) Whether the Hon'ble Tribunal was right in including 'Housekeeping and Landscaping Services' in the scope of term 'input service' defined in Rule 2 (1) of the CENVAT Credit Rules, 2004, without examining whether it was a service used directly or indirectly in or in relation to the manufacture of final products (or) used directly or indirectly in or in relation to the clearance of final products upto the place of removal especially when the Hon'ble Supreme Court in the case of Solaris Chemtech reported in 2007 (214) ELT 481 has held that the term "in relation to" would refer to an essential process or activity and in the case of Maruti Suzuki Ltd. reported in 2009 (240) ELT 641 has held that the expression 'in or in relation to the manufacture' is the substantive/specific and crucial requirement of the definition?"

5. Though the question of law has been raised, as above, for consideration, the main ground raised in the appeal is only with regard to including 'Housekeeping and Landscaping Services' under the term 'input service' in terms of Rule 2 (1) of the Cenvat Credit Rules, 2004.

6. However, at the time of admission, learned counsel appearing for the respondent/assessee brought to the notice of this Court that the said issue has been considered by the Karnataka High Court in favour of the assessee. Learned counsel for the appellant also fairly concedes the same.

7. In Commissioner of Central Excise, Bangalore-II - Vs - Millipore India Pvt. Ltd. (2012 (26) STR 514 (Kar.)), the Division Bench of the Karnataka High Court had occasion to consider similar issue and in the facts of the said case, while considering the definition 'input services' as defined under Section 2 (1) of the Cenvat Credit Rules, 2004, the Karnataka High Court held as under :-

"7. That apart, the definition of input services is too broad. It is an inclusive definition. What is

contained in the definition is only illustrative in nature. Activities relating to business and any services rendered in connection therewith, would form part of the input services. The medical benefit extended to the employees, insurance policy to cover the risk of accidents to the vehicle as well as the person, certainly would be a part of the salary paid to the employees. Landscaping of factory or garden certainly would fall within the concept of modernization, renovation, repair, etc., of the office premises. At any rate, the credit rating of an industry is depended upon how the factory is maintained inside and outside the premises. The Environmental law expects the employer to keep the factory without contravening any of those laws. That apart, now the concept of corporate social responsibility is also relevant. It is to discharge a statutory obligation, when the employer spends money to maintain their factory premises in an eco-friendly manner, certainly, the tax paid on such services would form part of the costs of the final products. In those circumstances, the Tribunal was right in holding that the service tax paid in all these cases would fall within the input services and the assessee is entitled to the benefit thereof. In that view of the matter, we do not see any infirmity in the order passed by the Tribunal. Accordingly, the substantial questions of law framed in this appeal are answered in favour of the assessee and against the revenue. The appeal is dismissed."

8. A cursory reading of the said judgment reveals that the facts in issue therein are similar to the facts in the present case. It is clear from the decision that where an employer spends money to maintain their factory premises in an eco-friendly manner, the tax paid on such services would form part of the cost of the final products and the same would fall within the ambit of "input services" and, therefore, the assessee is entitled to claim the benefit. This Court is in agreement with the ratio laid down in Millipore India Pvt. Ltd. case (supra), which is equally applicable to the case on hand and following the said decision, this appeal is liable to be dismissed. Accordingly, the substantial question of law is answered in favour of the assessee/respondent and against the appellant/Revenue.

9. For the reasons afore-stated, this appeal fails and the same is dismissed. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar

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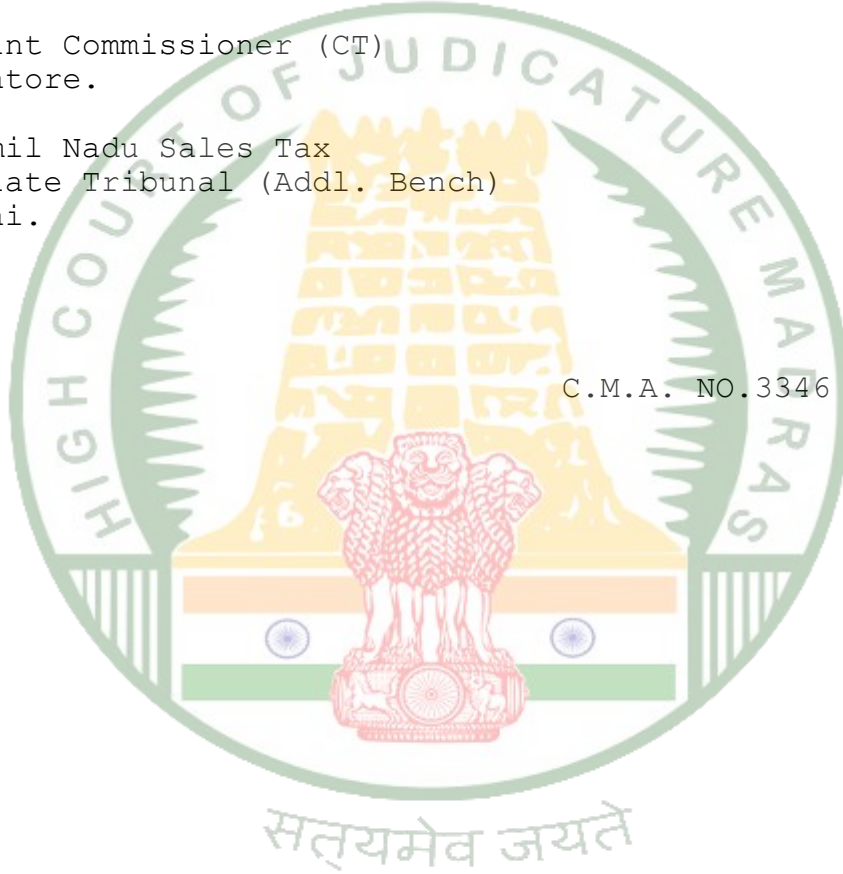
Sub Assistant Registrar

To

1. The Joint Commissioner (CT)
Coimbatore.
2. The Tamil Nadu Sales Tax
Appellate Tribunal (Addl. Bench)
Chennai.

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krd 24/4

C.M.A. NO.3346 OF 2010



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