

adjudicating the said proposal, the original adjudication authority vide Order-in-Original No. 09/2016-17 dated 03.06.2016 has dropped the demand of Cenvat credit amounting to Rs.13,83,790/- with respect to Professional/Consultancy fees. The demand of remaining amount of Cenvat credit of Rs.24,36,061/- has still been confirmed under the provision as mentioned in the order. The said order was upheld by Commissioner (Appeals) vide Order-in-Appeal No.156/2018 dated 21.06.2018. Being aggrieved of the said order, the appeal was filed before this Tribunal. Vide Final Order No.50247/2020 dated 29.01.2020, the Tribunal remanded the matter to the original adjudicating authority for the fresh adjudication.

2. In compliance of those directions that the Order-in-Original No. 02/2021-22 dated 26.07.2021 was passed vide which some amount again pertaining to Professional /Consultancy fees amounting to Rs.1,79,898/- was dropped. Accordingly, the Cenvat credit amounting to Rs.22,56,163/- was still disallowed along with the interest and the penalty of Rs.2,25,616/-. The appeal against the said order is partly allowed vide Order-in-Appeal dated 05.12.2023 holding that the availment of Cenvat credit of Rs.3,25,332/- on taxi and airfare expenses is permissible to the appellant and an amount of Rs.9,32,059/- in respect of professional fees/Consultancy fees is also permissible. The amount of penalty has been reduced to Rs.1,93,053/- Rs.9,98,772/- in respect of Insurance is held not permissible. The appeal was disposed of accordingly. Still being aggrieved, the appellant is before this Tribunal.

3. I have heard Shri S.C. Vaidyanathan, learned counsel for the appellant and Shri Rohit Issar, learned Authorized Representative for the department.

4. Learned counsel for the appellant has submitted that the impugned order has wrongly held that the Insurance Services were not used in or in relation to manufacture of final products and the same were used for other premises of the appellant. It is submitted that insurance policies were taken towards safety/performance of capital goods and such policies are indispensable important for the business. Such services are eligible for input service in terms of Rule 2(l) of Cenvat Credit Rules, 2004. To support his submissions, learned counsel has relied upon the following decisions:

(i) Sify Technologies Ltd. Commissioner GST and C.Ex., Chennai South reported as 2019 (25) GSTL 308 (Tri.-Chennai)

(ii) Gobind Sugar Mills Ltd. Vs. Commr. of C.Ex. & Service Tax, Lucknow reported as 2015 (38) STR 68 (Tri.-Del.)

4.1 It is further substantiated that none of the policies relates to family members. Service tax of those insurance policies have been paid by the appellant. The order of denying Cenvat credit on the amount paid for insurance policies is accordingly prayed to be set aside.

4.2 While submitting about denial of Cenvat credit for Professional fees (Forex and Financial Advisory Services), it is submitted that appellant import certain material for its business purposes and export final products, as a result the appellant has to pay through

foreign exchange. Since there occurred frequent variations in exchange rates this lead to losses if the foreign exchange is not dealt properly. Therefore, to escape from these losses, the method of hedging is chosen by the appellant and for that purpose the consultants were appointed. Since the services were used in the business of the appellant though indirectly, Cenvat credit has wrongly been denied. Learned counsel has relied upon the decision of **Bannari Amman Spinning Mills Ltd. Vs. commissioner of Central Excise & Service Tax reported as 2016 (46) STR 871 (Tri. Chennai).**

4.3 With respect to disallowance of Cenvat credit amounting to Rs.35,862/- related to tour and travel, it is submitted that for growth of the appellant's employees, a human resource company is engaged for employee's training with respect to communication skills and new idea generation. Since such activities also indirectly related to manufacture of final product, order denying the said amount of Cenvat credit is liable to be set aside.

4.4 Similarly, as regards to availment of Cenvat credit of Rs.5,24,174/- which were not addressed to appellant's unit, it is submitted that the appellant engaged Semac Consultants Pvt. Ltd. for detailed drawings and designs of factory layouts. Since the factory/project was based in Vadodara, the invoice was issued at factory unit only but the payments during the relevant period and for that purpose were handled by the appellant. Hence, the appellant was eligible for Cenvat credit of the said service tax paid. The order denying the same is prayed to be set aside. Learned counsel has relied upon the decision of this Tribunal in the case of

**Gobind Sugar Mills Ltd. Vs. Commr. of C. Ex. & Service Tax,
Lucknow reported as 2015 (38) STR 68 (Tri.-Del.).**

4.5 Finally, it is submitted that the adjudicating authority below have not properly dealt with the directions of remand. The authority has rather has widened the scope of show cause notice which is not permissible. Penalty is also not imposable. With these submissions, the order under challenge is prayed to be set aside and the appeal is prayed to be allowed.

5. Learned Departmental Representative, on the other hand, has reiterated the findings arrived at by the adjudicating authorities below at the second round of litigation. Since the Insurance Services were not solely used for the appellant themselves in manufacture or clearance of their own final product, the Cenvat credit for service tax paid towards those services has rightly been denied. There is also no infirmity when the Cenvat credit has been disallowed on Professional fees/Consultancy fees.

5.1 It is further submitted that as per Rule 9(5) of Cenvat Credit Rules, 2004 burden of proof regarding the admissibility of Cenvat credit shall lie upon the manufacturer or provider of output service taking such credit, but the appellant has failed to discharge the burden. Despite so many opportunities given, they have failed to provide the proof regarding the admissibility of the Cenvat credit availed by them on the input services in question. While relying upon the decision of this Tribunal in the case of **M/s. Power Finance Corporation Ltd. Vs. Commissioner of Central Excise & Service Tax, LTU, New Delhi in Service Tax Appeal No.**

50753 of 2017 vide Final Order No. 50502/2022 dated 09.06.2022, the present appeal is prayed to be dismissed.

6. Having heard the rival contentions, perusing the records and cases relied upon by both the parties, it is observed that at the first round of litigation this Tribunal in Final Order No. 50247/2020 dated 29.01.2020 has recorded the appellant's submission about having sufficient proof to show that the Cenvat credit of service tax paid on insurance cover has been taken for such services as were meant for appellant's own factories and that the appellant is in position to segregate such amount. With respect to service tax paid on air travel undertaken by the employees, the Tribunal while relying upon the decision in the case of M/s. The Ramco Cements Ltd. reported at 2018 (10) TMT 896 has observed that in case the travel is undertaken for the business of the assessee, the service tax paid is cenvatable. Similar are the observations with respect of Professional fee/Consultancy fee.

7. While complying the directions of the said remand order some part of Professional fee/Consultancy fee has been dropped but rest of the demand has been confirmed for want of any evidence. Hedging consultants are hired by the appellant and service fee is paid to them on which service tax is levied. The appellant has availed Cenvat credit of such service tax paid. I observe that the appellant imports certain material for its business purposes and export final products, as a result appellant has to pay through foreign exchange/currency. There are frequent variations in the currency rates when compared to Indian currency. The said variation may lead to losses if the foreign exchange is not dealt

properly. Therefore, to escape from these losses, the method of hedging is chosen. Thus the aforesaid activity is indirectly related to manufacturing business of appellant and thus is eligible for input service in terms of Rule 2(1) of Cenvat Credit Rules, 2004. I draw my support from the decision of **Bannari Amman Spinning Mills Ltd. Vs. Commr. of C. Ex. & S.T., Madurai reported as 2016 (46) STR 871 (Tri.-Chennai)**

8. Coming to the demand/reversal with respect to the service tax paid for insurance services, I observe that it is appellant's contention that the insurance was in respect of types of raw materials, finished and semi finished goods and stores used in the Ball Bearing Industry. Thus apparently the services of insurance were taken in relation to the manufacture of final product, though indirectly related. I further observe that the Cenvat credit on the service tax paid for such insurance service is denied for the only reason that the policies cover risk of the assessee sister concern of appellant also. It has been clear submission of the appellant that Cenvat credit is taken with respect to such insurance policies only which were taken at the time the factory premises of the sister concern were in progress and the service tax of those policies was not paid by those sister concern but was paid by the appellant themselves. There is no evidence produced by the department to falsify the said submissions.

9. This aspect has already been dealt by this Tribunal in appellant's own case in Appeal No. E/55585/2023 decided on 20.12.2024 vide Final Order No.59913/2024 dated 20.12.2024 wherein the invoices were issued at the different addresses than

the manufacturer's premises but the manufacturer had availed the Cenvat credit. It was held that the invoices had inadvertently mentioned the other address. Simultaneously, it was mentioned that the payment was made by the main manufacturer which is the fact for the present proceedings. Otherwise also, in terms of provisions of Rule 3 of the Cenvat Credit Rules, 2004, Cenvat credit is admissible on duty/service tax 'paid' and not 'payable'. Since the appellant had paid the service tax to the service provider while receiving the services used indirectly in manufacture of their own final product, the Cenvat credit is held to have been rightly denied. I draw my support for the decision of this Tribunal in the case of **Chandi Steel Industries Ltd. Vs. Commr. of CGST & C.Ex. reported as 2021 (54) GSTL 34 (Tri.-Kolkata)**. Thus it is held that the Cenvat credit of Insurance Services which have been taken towards insurance of safety/performance of capital goods, the service tax paid for obtaining these insurance policies which have been used in the business of appellant is eligible for availment of Cenvat credit. I draw my support from the decision of this Tribunal in the case of **RMZ Infotech Pvt. Ltd. Vs. Commr. of Central Tax, Bengalure East, 2022 (64) GSTL 599 (Tri.-Bang.)**.

10. As regards Cenvat credit of Rs.35,862/- related to tour and travel, there is no denial to the submission of the appellant about having huge employee base. For the growth of such employees, a Human Resource company is engaged who take the employees of appellant for training with respect to communication skills and new idea generation. The Human Resource agency charges a fee from appellant which is paid along with the service tax component.

Therefore, service charges paid to such Human Resource agency are also held to be indirectly related to manufacture of final products because productivity of employees increases post the training sessions.

11. As a result of above discussion, the order under challenge denying Cenvat credit is hereby set aside. Consequently, the appeal stands allowed.

[Order pronounced in the open court on **20.04.2026**]

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

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