

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT NO. III

EXCISE APPEAL No.42313 of 2015

[Arising out of Order-in-Appeal No.246 & 247/2015 (CXA-II) dated 26.08.2015
passed by the Commissioner of Central Excise (Appeals-II), Chennai]

**M/s.Arkkays National Engineering &
Foundry Co. Unit-I**

No.17/C-1, Ambattur Industrial Estate,
Ambattur,
Chennai 600 058.

Appellant

Vs

The Commissioner of GST & Central Excise,

Chennai South Commissionerate,
No.692, MHU Complex, Nandanam,
Chennai 600 035.

Respondent

APPEARANCE:

Shri M.N. Bharathi, Advocate
For the Appellant

Shri S. Balakumar, Assistant Commissioner (AR)
For the Respondent

CORAM:

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)

Date of Hearing : 07.11.2022

Date of Decision: 07.11.2022

FINAL ORDER No. 40355 / 2022

Brief facts of the case are that the appellant is a manufacturer of
Bright Bars of the Free cutting steel, Carbon steel and alloy steel and
are registered with the Central Excise Department. The appellant-

company has several units and the present dispute is with regard to the unit situated in Ambattur Industrial Estate, Chennai. They were availing the facility of cenvat credit on various input services. During the course of audit of accounts, it was noticed that they have availed ineligible credit on Bank charges as well as Chartered Accountant services. Show cause notice was issued proposing to disallow the credit and also to recover the credit to the tune of Rs.16,86,697/- in respect of these services along with interest and also for imposing penalties. After due process of law, the original authority confirmed the demand along with interest and imposed penalties. Appellant filed appeal before the Commissioner (Appeals). The same was upheld. Hence this appeal.

2. On behalf of the appellant, Ld. Counsel Shri M.N. Bharathi appeared and argued the matter. He submitted that in respect of bank charges, the credit has been denied alleging two reasons. Firstly, that appellant has not taken ISD Registration and that the credit availed on various other units were not distributed to the Ambattur Industrial Estate as required under Rule 7 of Cenvat Credit Rules, 2004.

3. The second ground for denying credit on banking charges is that instead of availing credit on the vouchers issued by the bank, they have availed credit on debit advices in the nature of bank statements showing the bank charges. Countering these allegations, the

Ld. Counsel submitted that the requirement to take ISD registration is only a procedural one and that credit cannot be denied on procedural error. To support this argument, he relied upon the decision of the jurisdictional High Court of Madras in the case of *CCE Coimbatore Vs Pricol Ltd.* - 2021 (48) G.S.T.L. 235 (Mad.) wherein it has been stated that non-taking registration as Input Service Distributor is only a procedural error and the same cannot be a reason for disallowing the credit. In regard to the allegation that appellant has availed credit on debit advices issued by the banking authority in stead of invoices, he submitted that the appellant had provided the statements/ advices obtained from the bank showing the bank charges. The Department has no dispute with regard to bank charges collected from the appellant. Therefore, the credit ought not to have been disallowed.

4. The credit availed on Chartered Accountant services has been denied stating that one of the bills is addressed and intended to the Proprietor Mr.Ashok Ramchand HUF and another is in the name of the other units. It is alleged by that the department that Chartered Accountant services relate to other units as well as the individual and therefore the credit is not eligible. Ld. Counsel adverted to the invoices which have been mentioned in para (b) of page 2 of the show cause notice to establish that these invoices have been issued to the appellant-company. The name of Mr.Ashok Ramchand Bulchandani who is the Kartha of the company is also mentioned along with the

name of the company. It does not mean that the invoices have been issued to the individual HUF and to other units.

5. The other reason for denial of credit on Chartered Accountant services is that the appellant has not taken Input Service Distributor registration. The same is covered by the decision in the case of *Pricol Ltd.* (supra) which is applicable to the issue in regard to bank charges. He prayed that the appeal may be allowed.

6. Ld. A.R Shri S. Balakumar appearing for the Department supported the findings in the impugned order.

7. Heard both sides.

8. The issue is whether credits availed on bank charges and Chartered Accountant services are eligible or not. In regard to bank charges the Department has denied the credit alleging that the appellant has not taken Input Service Distributor registration. The Hon'ble High Court of Gujarat has upheld the Tribunal decision in the case of *CCE Vs Dashion Ltd.* - 2016 (41) S.T.R 884 (Guj.). The said decision was relied by the Hon'ble jurisdictional High Court of Madras in *CCE Coimbatore Vs Pricol Ltd.* - 2021 (48) G.S.T.L. 235 (Mad.). It was held by the Hon'ble jurisdictional High Court that there is nothing in statutory rules to disentitle an unregistered input service distributor

from availing cenvat credit and that non-taking registration is only a procedural error which is curable. After appreciating the facts and following the said decision, I am of the view that the denial of credit on the ground that appellant has not taken Input Service Distributor registration in respect of Bank charges and Chartered Accountant services cannot sustain and requires to be set aside which I hereby do.

9. The Department does not dispute the collection of bank charges by the bank for the services provided by them. Merely because the credit is availed on bank advice / bank statement the credit cannot be denied unless there is discrepancy in these documents. It is also submitted by the Ld. Counsel that there is no discussion on this allegation either in the Order-in-Original or the impugned order. Mere allegation in the SCN cannot be a ground to deny credit. I hold that disallowance of credit alleging that appellant has availed credit on debit advices / bank statements is not legal and proper.

10. The credit in respect of Chartered Accountant services has been denied alleging that the bills are not issued in the of the appellant, but has been issued in the name of an individual and other units of the appellant. In page-2 of the SCN it has been noted that credit availed on Chartered Accountant services are based on bills dated 14.10.2008, 03.11.2009, and 07.10.2010. The appellant has furnished these bills before the Tribunal. On perusal, it is seen that these bills are addressed

to the appellant-company and not in the name of an individual. After mentioning the name of the company, the name of the Kartha Mr.Ashok Ramchand Bulchandani has also been mentioned. This will not make the bills issued in the name of an individual. Denial of credit alleging that these bills are issued in the name of individual and in the name of other units of the appellant is factually incorrect. For these reasons, I have to hold that denial of credit on Chartered Accountant cannot be sustained.

11. From the above discussions, the impugned order is set aside. The appeal is allowed with consequential relief, if any, as per law.

(Dictated in open court)

**(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)**