

Hotel accommodation service used by employee is an eligible input service for availment of Credit

The Hon'ble CESTAT, Delhi in *M/s Bharat Heavy Electricals Ltd. v. Commissioner, Central Excise & CGST-Dehradun [Final Order No. 50958 / 2022]* held that the Hotel accommodation service received by the appellant is an eligible input service under Rule 2(I) of the CENVAT Credit Rules, 2004 ("**CCR**"). Further, the CESTAT allowed the appeal and held that the assessee is also entitled to consequential benefits.

Facts:

M/s Bharat Heavy Electricals Ltd. ("**the Appellant**") is a manufacturer of busduct along with other goods, registered with the Central Excise department. The Appellant was also registered under the service tax for providing output service of 'Erection, Commissioning, and Installation of busduct, manufactured by the Appellant at the outstation sites of the buyers of the bus duct.

Further, the Appellant was availing cenvat credit of duty paid on the inputs and capital goods used in the manufacture of their final products and service tax paid on the input services used for providing the taxable output service. The service tax paid on the input service of 'hotel accommodation' used by the employees of the Appellant while on outstation duties for providing output service of 'Erection, Commissioning and Installation' was also availed by the Appellant.

Moreover, a show cause notice dated February 08, 2019, ("**SCN**") was issued to the Appellant seeking to recover the cenvat credit amount along with interest and penalty as according to the revenue auditors the input service credit of service tax paid on accommodation service did not qualify as input service under Rule 2(I) of CCR.

This demand of cenvat credit along with interest and penalty was confirmed in the order in original (“**OIO**”), being aggrieved of same, the Appellant filed an appeal which was arbitrarily rejected in the order in appeal (“**OIA**” or “**the Impugned order**”).

Lastly, being aggrieved by the Impugned order, the Appellant filed an appeal before CESTAT.

Issue:

Whether credit on input service will be allowed on the ‘Hotel Accommodation Service’ received by the Appellant for rendering the output service of ‘Erection, Commissioning and Installation’ under Rule 2(l) of CCR?

Held:

The Hon’ble CESTAT, Delhi in ***Final Order No. 50958 / 2022*** held as under:

- Held that for rendering the taxable output service of ‘Erection, Commissioning and Installation’ the appellant has to send their employees to the site for rendering the services. For rendering such service at the site, the staff of the appellant needs to be necessarily accommodated at hotels situated nearby. Therefore, without such accommodation or any alternate accommodation provided to the staff, the taxable output service cannot be rendered.
- Observed that the hotel accommodation service received by the appellant is an eligible input service under Rule 2(l) of CCR. Therefore, the CESTAT allowed the appeal, set aside the impugned order, and concluded that the Appellant is entitled to consequential benefits.

Our Comments:

Post- GST regime, registered person will be allowed to avail Credit on ‘Hotel Accommodation Service’ provided to the employees in *pari materia* case, as

accommodation services availed is not for the personal use but in the course or furtherance of business.

Relevant Provisions:

Rule 2(l) of CCR

“Definitions

2. (l) *“input service” means any service,-*

(i) used by a provider of taxable service for providing an output service; or

(ii) used by the manufacturer, whether directly or indirectly, 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 setting up, 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 up to the place of removal, procurement of inputs, activities relating to business, such as accounting, auditing, financing, recruitment, and quality control, coaching, and training, computer networking, credit rating, share registry, and security, inward transportation of inputs or capital goods and outward transportation up to the place of removal”

(Author can be reached at info@a2ztaxcorp.com)

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