

GIB/TN/TRIMBLE INFORMATION/12.04.2021/OTHERS-18

Others Category : Refund of Unutilized ITC

State : Tamil Nadu

Order No.: GIB/TN/TRIMBLE INFORMATION/12.04.2021/OTHERS-18

Name of Entry :

M/S.TRIMBLE INFORMATION TECHNOLOGIES INDIA PVT. LTD

Date : 12-04-2021

Breif Issue :

FACTS AND ISSUE OF THE CASE:

The assessee, M/s. Trimble Information Technologies India Pvt. Ltd. being aggrieved by the Orders passed by the Commissioner of Central Tax has filed these appeals and the common issue to be decided is the denial of refund claim under Rule 5 of the CENVAT Credit Rules, 2004 of the unutilized credit on the inputs and input services used for providing output services.

Mr. L. Nandakumar, Learned Authorized Representative/Assistant Commissioner appearing for the Revenue, relied on the findings in the impugned order. He also contended specifically that the appellant did not file any details with regard to the following services and hence, the authorities below have rightly denied the refund on Plant Rental Charges, Freight Charges, Installation Charges, Auditorium Charges, and Event Management Charges.

Decision of Advance Ruling Authority :

DECISION:

Following are the services against which the CENVAT Credit availed by the appellant have been rejected:

Cleaning Service- It has been held that Cleaning Services are essential for providing output services and therefore, the same would qualify as input service and hence eligible for refund.

Plant Rental Charges- The appellant did not file any details as to the nature of service. However, it is seen that since services of renting of equipment's for organizing events are allowed as valid input service, the same logic should apply here and accordingly, in principle, the denial of CENVAT Credit is held bad

Freight Charges- Freight Charges are included in the inclusive part of the definition of “input service” under Rule 2 (I) of the CENVAT Credit Rules, 2004 and hence, the denial by the lower authorities is bad. The impugned order to this extent is set aside and this ground is allowed.

Installation Charges- Since no details were furnished, this issue requires re-adjudication. Accordingly, the impugned order to this extent is set aside and the matter is remanded to the file of the Adjudicating Authority to verify the details and follow the guidelines - this issue is allowed by way of remand.

Pest Control Charges- The assessee has claimed that this issue is akin to Cleaning Services, which is very much essential to keep the business premises safe and clean and hence, credit is allowed.

Car parking charges-terrace charges - terrace and car-bike charges- The parking charges is an essential service provided to all the employees and used by them during the course of their employment and hence, this forms an essential service - denial of CENVAT Credit on the above service is therefore held to be bad.

Auditorium Charges- The service is an essential service since the trainings are provided for the employees of the appellant or business meetings are held there and hence, the denial of CENVAT Credit is not justified.

Event Management Charges- It is the case of the appellant that the above services were used for promoting the brand name of the company and the expenses relating to advertisements or sales promotions are specifically covered within the scope of the definition of “input service” under Rule 2 (I), the tribunal said.

Purchase of air conditioning- It is the case of the assessee that the service were not used for the construction of a building or civil structure, but they were in the nature of annual maintenance charges therefore credit is allowed.

Membership Subscription- The business promotion is very much essential for the survival of every company, the membership only expands the reach thereof and hence, it is a way of marketing the brand, which is an essential service - credit allowed.

In the result, the appeals are partly allowed and partly remanded, on the above terms.