

GIB/KA/FIDELITY BUSINESS/16.04.2021/OTHERS-22

Others Category : REFUND OF UNUTILIZED CENVAT CREDIT

State : Karnataka

Order No.: GIB/KA/FIDELITY BUSINESS/16.04.2021/OTHERS-22

Name of Entry :

M/S. FIDELITY BUSINESS SERVICES INDIA PVT LTD

Date : 16-04-2020

Breif Issue :

FACTS AND ISSUE OF THE CASE:

The appellants are engaged in providing Information Technology Software Services and Business Auxiliary Services and are registered under the Service Tax. The appellant filed refund claims for different quarters as stated in the table under Notification No.27/2012-CE dated 18.06.2012 read with Rule 5 of CENVAT Credit Rules 2004 and Service Tax Rules 1994 for refund of unutilized CENVAT credit of Service Tax said to have been paid by them on the input services availed by them for providing output services viz. Information Technology Software Services and Business Auxiliary Services which are exported during the relevant periods.

After following the due process of law, the Original Authority or Sanctioning Authority sanctioned certain portion of the refund of CENVAT credit of service tax availed on input service said to have been used for provision of export services, which have been exported during the various quarters and rejected the CENVAT credit on certain other input services on various grounds. Aggrieved by the said order, the appellant filed appeal before the Commissioner (Appeals) to the extent of rejection of CENVAT credit by the Sanctioning Authority on various grounds and the Commissioner (Appeals) has also rejected the refund claimed by the appellant on certain services but allowed the refund on certain input services which were denied by the Original Authority

Decision of Advance Ruling Authority :

DECISION:

The learned Counsel appearing for the appellant has given full justification that the said services have been used for providing the output service and also find that the services viz. Architectural Service, Event Management Service, Works Contract Service, Supply of Tangible Goods Service, has been specifically held to be input service by various decisions

rendered by the Tribunal and the High Court.

General Insurance Service - The appellant has not been able to bifurcate the Insurance Service availed on the assets of the company and on the lives of the persons working in the said company. In the absence of clear bifurcation and lack of documentary evidence, the CENVAT credit on General Insurance Services is denied - credit denied.

Club Membership Service - The learned Commissioner, though, has admitted that the said services is in relation to applying for the membership of the trade and association but still hold the same is for the benefit of the employees only. This finding of the learned Commissioner is wrong because the membership of the club was used in relation to promoting the trade and hence it falls within the definition of Input Service - credit allowed.

Photography Service - The Photography Services were availed by the appellant for capturing the business events which are necessary to keep record of the events conducted as well as for future reference hence this service also falls within the definition of Input Service - credit allowed.

Credit Card and Debit Card Services - These services were used for booking official travels, meal cards and accommodation for the appellant's employees who had to travel within or outside India on official projects which directly contributes to the business operation and has a direct nexus to the output service - the said service also falls within the definition of Input Service - credit allowed.

Appeal allowed in part.