GIB/KN/MANIPAL/18-10-2009/OTHERS-7

Others Category : CESTAT

State : Karnataka

Order No.: GIB/KN/MANIPAL/18-10-2009/OTHERS-7

Name of Entry :
Manipal Advertising Services Pvt Ltd.

Date : 18-10-2009

Breif Issue :

Issue & Fact of the Case:

The appellants are having Service tax registration and are registered as providers of advertisement services. It appeared appellants had contravened the previsions of Rule 9 of Cenvat Credit Rules, 2004 in as much as they have availed credit during the period 1-4-2005 to 31-5-2005 on the documents which are not addressed to the appellants but addressed to the other premises of the appellants at Bangalore, New Delhi, Chennai etc. Hence a show cause notice dated 26-9-2006 was issued demanding the reversal of such service tax credit, with interest and penalty was sought to be imposed.

Decision of Advance Ruling Authority :

Decision:

Held that If a person is discharging Service tax liability from his registered premises, the benefit of Cenvat credit on the Service tax paid by the service providers cannot be denied to the appellant, only on the ground that the said invoices are in the name of branch offices. There is no dispute that the branch offices are not registered with the Service tax authorities and they are not discharging the Service tax liability, obviously, as the appellant is discharging Service tax liability on the services provided by branches.

It was also observed that the document on which the appellant has taken the Service tax credit, though in the name of branch office are actually being paid from the premises wherein the Service tax registration has been taken, We find that the ratio of the decision of the Tribunal in the case of Stadmed Pvt. Ltd. (supra) and Gujarat Heavy Chemicals Ltd. (supra) though being delivered in respect of Cenvat/modvat credit on the Central Excise duty, it squarely applies to the case in hand.

In view of the above findings, the impugned order is unsustainable and they set aside the same and allow the appeal with consequential relief if any.

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