

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO. 3

Service Tax Appeal No. 12551 of 2013-SM

(Arising out of OIA-99-2013-STC-SKS-COMMR-A-AHD dated 31/05/2013 passed by Commissioner of Service Tax-SERVICE TAX - AHMEDABAD)

Ifb Industries Limited

202 Maruti Crystal Opposite Rajpath Club
S G Highway Bodakdev
AHMEDABAD
GUJARAT

.....Appellant

VERSUS

C.S.T.-Service Tax – Ahmedabad

7 th Floor, Central Excise Bhawan, Nr. Polytechnic
Central Excise Bhavan, Ambawadi,
Ahmedabad, Gujarat - 380015

.....Respondent

APPEARANCE:

Shri Pulak Kumar Saha, Chartered Accountant appeared for the Appellant
Shri Ajay Kumar Samota, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR

Final Order No. A/ 11622 /2023

DATE OF HEARING: 28.03.2023
DATE OF DECISION: 28.07.2023

RAMESH NAIR

This appeal is directed against Order-In-Appeal dated 31.05.2013 whereby Commissioner (Appeals) upheld the demand of Cenvat Credit of Rs. 4, 06,163/- and corresponding interest and penalty. The appellant being aggrieved with the said impugned order filed the present appeal.

2. Shri Pulak Kumar Saha, Learned Chartered Accountant appearing on behalf of the appellant submits that the appellant is a branch of IFB Industries Limited. Through this branch the appellant are providing the repair & maintenance service to the individual customer of IFB Industries Limited on which they are paying service tax, they are also availing cenvat credit and various expenditures incurred in respect of Advertisement expense, Telephone bills, Bank charges, Insurance etc. These services were

used for providing output service, therefore, the cenvat credit is rightly availed by the appellant. The lower authorities have denied the cenvat credit only on the ground that since the appellant's service unit is part of their Goa unit, therefore, they cannot separately operate as independent service provider. Hence, the cenvat credit cannot be availed.

2.1 He submits that as regard the payment of service tax by the appellant branch is not under dispute therefore, the credit should not be denied.

3. Shri Ajay Kumar Samota, Learned Superintendent (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order.

4. I have carefully considered the submissions made by both sides and perused the records. I find that even though the appellant service tax registration is on the common PAN based but the appellant have taken separate registration for their Ahmedabad service branch. They are also discharging service tax on the output service of repair and maintenance of equipment and appliances of IFB Industries Limited. Therefore, once the department has accepted the payment of service tax on their output service, the cenvat credit cannot be denied on the input services which are used for providing output service. Accordingly, in my considered view, the appellant is entitled for the cenvat credit amount of Rs. 4,06,163/.

5. Hence, the demand of such cenvat credit and corresponding interest and penalty are set aside. Appeal is allowed in above terms.

(Pronounced in the open court 28.07.2023)

RAMESH NAIR
MEMBER (JUDICIAL)