

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, MUMBAI
REGIONAL BENCH
COURT No.**

Service Tax Appeal No. 87758 of 2019

(Arising out of Order-in-Appeal No. IM/CGST/A-I/MUM/04/19-20 dated 22.04.2019 passed by the Commissioner of CGST & Central Excise (Appeals-I), Mumbai)

M/s. McKinsey & Co. Inc.

21st Floor, Express Towers,
Nariman Point, Mumbai 400 021.

Appellant

Vs.

Commissioner of CGST & CE, Mumbai South

13th Floor, Air India Building,
Nariman Point, Mumbai 400 021.

Respondent

Appearance:

Shri Archit Agarwal, Chartered Accountant, for the Appellant
Shri S.B.P. Sinha, Superintendent, Authorised Representative for the Respondent

CORAM:

**HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER
(TECHNICAL)**

Date of Hearing: 08.09.2023
Date of Decision: 14.09.2023

FINAL ORDER NO. 86374/2023

After hearing both the sides and on perusal of records, I note that the proceedings at the lower level resulted in denial of Cenvat credit to the appellant on architect service and on office renovation service to the tune of respectively Rs.7,01,430/- and Rs.2,86,995/- holding that the same are not satisfying the definition of input service. Another Cenvat credit of Rs.1,03,906/- was denied to the appellant for the reason that PAN based service tax number was not available on the invoices of input services. Further, Cenvat credit of Rs.1,546/- was denied to the appellant for the reason that the same was paid to a hotel where business conference was held, but in the opinion of lower authorities, it had no nexus with the output service provided by the appellant. Learned AR for Revenue has

submitted that the impugned order-in-appeal is reasonable through which the said Cenvat credit was denied and penalties under Sections 77 and 78 of Finance Act, 1994 were imposed on the appellant. Learned Chartered Accountant for the appellant has submitted that the appellant was entitled to avail Cenvat credit of service tax paid for repair and renovation of office as provided through a clarification in circular issued by CBEC bearing No. 943/04/2011 dated 29.04.2011 and also as held by this Tribunal through precedent decision in the case of Asrani Inns & Resorts Pvt. Ltd. reported at 2023 (4) TMI 606 – CESTAT MUMBAI. Learned C.A. has further submitted that it was held by this Tribunal in the case of Pangea-3 Legal Data Base System Pvt. Ltd. reported at 2018 (4) TMI 110 – CESTAT ALLAHABAD that when the invoices are issued after performance of service, the service receiver cannot be held responsible for non-mentioning of PAN based service tax number on invoices. In respect of Cenvat credit of service tax paid to hotel where business conference was held, learned C.A. has submitted that it was held in the case of Kantar IMRB reported at 2023 (5) TMI 1025 – CESTAT MUMBAI that onus is on Revenue to establish that the hiring of hall for conference by the appellant had no nexus with the output service. He has submitted that on the basis of CBEC circular and the precedent decisions of this Tribunal, the entire Cenvat credit of Rs.10,93,877/- was admissible to the appellant.

2. I have carefully gone through the record of the case and submissions made by both the sides, the above stated circular issued by CBEC and the case laws relied upon by learned Chartered Accountant for the appellant. I find that all the contentions raised by learned C.A. are admissible and sustained in view of the circular and relied upon case laws. I, therefore, hold that the appellant is entitled for Cenvat credit of Rs.10,93,877/- involved in this case.

3. I, therefore, set aside that part of the impugned order through which Cenvat credit of Rs.10,93,877/- was denied to the appellant and allow the appeal.

(Order pronounced in the open court on 14.09.2023)

(Anil G. Shakkarwar)
Member (Technical)

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