The rule of "identical expressions to have the same meaning" v/s VKC judgement.

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While delivering VKC judgement, the Honourable Supreme Court opined that the term *"inputs"* cannot be given meaning to cover "input services" and thereby, restricting refund only on inputs in case of inverted duty structure and not on input services. Whether this interpretation is going against to the 'golden rule' or 'mischief rule' where the intention of legislature needs to be considered?

Though, GST was introduced to avoid cascading system, by virtue of these restrictions (no refund on input services in case of inverted tax structure), would it really meet the intent of the legislature? At the same time, we need to keep in mind the rule of literal interpretation which emphasises on giving a true meaning for the words in the statute and the courts are bound follow the same without bothering much about the outcome.

Analysing the above aspects, I thought of finding the true meaning of the term "Inputs" with the help of one more rule of interpretation called as *"Identical expressions to have same meaning".* It means when the legislature has used a particular expression in a statute many times, the expression must bear the same meaning everywhere. To call the same thing by the same name is a very safe proposition.

However, the courts should be very careful while applying this principle because the same expression expressed in a different context than the earlier one may have been intended by the legislature to have a different meaning. Therefore, to find out, whether the same word should have the same meaning or not is a very difficult task for the court. The courts while interpreting the same expression differently, generally give the reason that their context is different. Another reason for doing so may be that the word exists in a consolidating statute where it has been derived from two distinct enactments.

The term 'input' has been used 61 times in the CGST law. Now, let's try to understand the different contexts in which the term "INPUTS" has been used in the law and try to analyse with the SC judgement under different scenarios.

First scenario

The words input and input service have been defined separately

(59) "input" means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.

(60) "input service" means any service used or intended to be used by a supplier in the course or furtherance of business.

*(72) "manufacture" means processing of raw material or **inputs** in any manner that results in emergence of a new product having a distinct name, character rand use, and the term "manufacturer" shall be construed accordingly.*

(42) "drawback "in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods.

If the legislature had the intention to treat input service as inputs, then there was no requirement of defining the terms separately in the statue which have been reproduced above.

Second scenario

Credit option provided to banking industry.

*A banking company or financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty percent of the eligible input tax credit on **inputs**, capital goods and **input services** in that month and there shall lapse:*

The provision was very unambiguous in stating that the fifty percent of input tax credit on inputs, input service and capital goods shall be eligible. Hence, the intention of the legislature is very much clear to draw a line between inputs, input service and the capital goods.

Third scenario

The law enabled to avail input tax credit in such scenario`s like, where the taxpayer (TP) becomes liable to register under GST, or the TP's products becomes liable to GST, or composition dealer converting to regular taxation scheme, the law provided to avail input tax credit on inputs which are on stock and work in progress. [Clauses (c) and (d) of Section 18(1)]

*Further, the law also provides under Section 18(1)(a) that, a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of "**inputs held in stock"** and inputs contained in semifinished or finished goods*

held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.

So, the intention of using the term “inputs” is to allow ITC only on goods.

Fourth scenario

Taking input tax credit in respect of inputs and capital goods sent for job work.

*As per Section 143 of CGST Act, the principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on **inputs** sent to a job worker for job-work.*

The term inputs have been used plurally to cover **only goods** while ensuring credit to the principal manufacturer for the job work transactions.

Fifth scenario

Manner of distribution of credit by Input Service Distributor

The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.

Whole concept of ISD is applicable in case of service recipient to be distributed to its other units. If one needs to interpret the term “Inputs” as input service as well, there was no need for a special mention about input service under section 20 of CGST Act.

Sixth scenario

*The transitional provisions in CGST Act provides that a registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of **inputs or input services** received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, within such time and in such manner as may be prescribed, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day.*

While ensuring the ITC through transitional provisions after appointed day, the terms used in the law was **inputs** and input services. And the term “inputs” is not to be interpreted to include input service as well.

Seventh scenario

Provisions relating to job work.

*Where any **inputs** received at a place of business had been removed as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of existing law prior to the appointed day and such inputs are returned to the said place on or after the appointed day, no tax shall be payable if such inputs, after completion of the job work or otherwise, are returned to the said place within six months from the appointed day*

*A registered person (hereafter in this section referred to as the "principal") may under intimation and subject to such conditions as may be prescribed, send **any inputs or capital goods**, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise.*

Both in terms of transitional provisions and regular job work provisions, the term "Inputs" being used to refer only raw materials and not to cover both input service and the capital goods. - Though, categorizing might have caused some inconvenience or the hardship to the trade and industry. Yet, that cannot deviate the legislature intention.

The Supreme Court in Prestige Engineering (India) Limited v. Collector of C., Excise, Meerut [1994 (73) E.L.T. 497 (S.C)] observed that once an expression is defined in the Act, that expression, wherever it occurs in the Act, Rules or Notifications issued thereunder, should be understood in the same sense.

In the case of Indo-International Industries v. Commissioner of Sales Tax, U.P. [1981 (8) E.L.T. 325 (S.C.)], Hon'ble Supreme Court has held as follows:

It is well settled that in interpreting items in statutes like the Excise Tax Acts or Sales Tax Acts, whose primary object is to raise revenue and for which purpose they classify diverse products, articles and substances resort should be had not to the scientific and technical meaning of the terms or expressions used but to their popular meaning, that is to say, the meaning attached to them by those dealing in them. If any term or expression has been defined in the enactment, then it must be understood in the sense in which it is defined but in the absence of any definition being given in the enactment the meaning of the term in common parlance or commercial parlance has to be adopted.

Conclusion

In case of VKC, the SC categorically concluded that it is not possible to redraw of boundaries or expand the provision for refund beyond what the legislature has provided for. The argument that 'inputs' include 'input services' would not hold good for the reasons stated in the

judgement and also based on rule of ‘identical expressions to have the same meaning’ as analysed above.