

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 3

Central Excise Appeal No.20046 of 2023

(Arising out of Order-in-Appeal No.386/2022 dated 21.10.2022
passed by the Commissioner of Central Tax (Appeals-I), Bangalore.)

M/s. LAPP India Private Limited,

Plot No.98 J &K II Phase,
Jigani Industrial Area,
Bangalore - 560 015.

Appellant(s)

VERSUS

**The Commissioner of Central Tax
Bengaluru South Commissionerate,**

5th Floor, C.R. Building, P.B.No.5400,
Queens Road, Bangalore-560001.

Respondent(s)

APPEARANCE:

Mr. Vinay K.V., Chartered Accountant for the Appellant.

Mr. Vikalp Jain, Superintendent (AR) for the Respondent.

CORAM: HON'BLE MR. D.M. MISRA, MEMBER (JUDICIAL)

FINAL ORDER NO. 21963 /2025

DATE OF HEARING: 09.12.2025

DATE OF DECISION: 09.12.2025

PER: DR. D.M. MISRA

Heard both sides.

2. This is an appeal filed against Order-in-Appeal No.386/2022 dated 21.10.2022 passed by the Commissioner of Central Tax (Appeals-I), Bangalore.

3. This is the second round of litigation in the earlier round, after hearing the appellant, this Tribunal while remanding the matter observed as follows:

"7.1. As regards the first issue, I find that the provisions of Cenvat Credit Rules were amended by insertion of an explanation which indicated trading activity is an exempted services. Hon'ble High Court of Madras in the judgment as cited, settled the law that explanation inserted from 01.04.2011 will apply for the period prior to 01.04.2011 also and following the said ratio, I hold that the trading activities undertaken by the appellant during the period in question has to be treated as an exempted services. Since it is undisputed that appellant is manufacturer of excisable goods and is discharging appropriate central excise duty, the proportionate cenvat credit attributable to the trading activity needs to be reversed and the same should be arrived based upon the provisions of Rule 6(3A) of the Cenvat Credit Rules 2004. To that limited extent, the matter is remitted back and the adjudicating authority to quantify the amount and also demand the interest on the same.

7.2. As regards the cenvat credit of the service tax paid on Management Consultancy Services, it is covered under Section 65(105)(r) of the Finance Act 1994, I find that the provisions of Rule 6(5) of the Cenvat Credit Rules 2004 are very clear which needs reproduction:

"(5) Notwithstanding anything contained in sub-rules (1), (2) and (3), credit of the whole of service tax paid on taxable service as specified in sub-clause (g) (p), (q) (r), (v), (w), (za), (zm), (zp), (zy), (zsd), (zsg), (zsh), (zzi), (zsk), (zsq) and (zsr) of clause (105) of Section 65 of the Finance Act shall be allowed unless such service is used exclusively in or in relation to the manufacture of exempted goods or providing exempted services."

It can be seen from the above reproduced provision that the said sub-rule starts with a non-obstante clause, which would mean that this sub-rule has to be read independently and it

provides for availment entire cenvat credit even if the same is used for manufacturing of dutiable and exempted goods and are providing taxable and exempted services. In my view, appellants have made out a case for availment of the entire cenvat credit of the service tax paid on Management Consultancy Services as per the above reproduced sub-rule. To that extent the appeal filed by the appellant is allowed and the demands raised on this ground are liable to be set aside. Since the demands are set aside on this ground, the question of Interest does not arise.”

4. Learned Chartered Accountant for the appellant submits that in their case the issue involved in the present appeal is whether proportionate reversal of cenvat credit attributable to exempted service when cenvat credit was availed on Management Consultant Services after discharging service tax on reverse charge mechanism it is subjected to Rule 6(3) of Cenvat Credit Rules. He submits that while disposing the issues raised before the Tribunal on the applicability of Rule 6(3) of Cenvat Credit Rules, the Tribunal has set aside the demands relating to cenvat credit availed on Management Consultant Services after interpreting Rules 6(5) of the Cenvat Credit Rules, 2004. The Learned Commissioner (Appeals) has confused and misunderstood the remand proceeding of para 7.1 of the CESTAT order with para 7.2 and accordingly upheld the demand confirmed by the adjudicating authority in the *de-novo* proceeding.

5. Learned Authorised Representative (AR) for the Revenue reiterated the findings of the Learned Commissioner (Appeals).

6. Ongoing through the remand order of the CESTAT, we find that the Tribunal had decided/disposed two issues one relating to reversal of proportionate cenvat credit attributable to exempted services and second issue is whether the demand relating to

reversal of proportionate cenvat credit attributable to Management Consultant Service is covered under Rule 6(5) of CCR or otherwise which is evident from paragraphs 7.1 and 7.2 of the CESTAT's remand order.

7. We find that in the present case, the only issue involving for whether cenvat credit availed on Management Consultant Service being fall under Rule 6(5) of CCR, 2004 and accordingly, the appellant is entitled to avail cenvat credit on the exempted services rendered along with taxable services during the relevant period. Since, the Tribunal has already decided the issue in their favour at para 7.2 of the order, therefore, the order of the Learned Commissioner (Appeals) directing them to reverse proportionate cenvat credit attributable to exempted services ignoring the Provisions of Rule 6(5) of Cenvat Credit Rules, 2004 applicable to Management Consultant Service classified under Section 65(105)(r) of the Finance Act, 1994, cannot be sustained.

8. In the result, the impugned order is set aside and the appeal is allowed with consequential relief, if any, as per law.

(Operative portion of the order was pronounced
in Open Court on conclusion of hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

rv /gm