

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

REGIONAL BENCH - COURT NO. 2

Central Excise Appeal No. 20120 of 2023

(Arising out of Order-in-Appeal No.BEL-EXCUS-000-APP-AS-044-2022-23 dated 23.12.2022 passed by the Commissioner of Central GST & Central Excise (Appeals), Belagavi)

M/s. Belgaum Ferrocast Pvt. Ltd.,

Unit-II, Plot No.150, Sy.No.588 & 589,
Machine Industrial Estate,
Belagavi-590 014.

.....**Appellant(s)**

VERSUS

Commissioner of Central Tax,

No.71, Club Road,
Belagavi-590 001.

.....**Respondent(s)**

APPEARANCE:

Mr. M. A. Nayalkalkar, Advocate for the Appellant.
Mr. Rajshekar B.N.N, Superintendent (AR) for the Respondent.

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)

HON'BLE MR. PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

Final Order No. 22263 /2025

Date of Hearing: 08.10.2025

Date of Decision: 08.10.2025

PER: P.A. AUGUSTIAN

The issue in the present appeal is regarding denial of cenvat credit and imposition of penalty by Adjudication /Appellate Authority.

2. The brief facts are the Appellant is the manufacturer CI Castings and alleging that the appellant had claimed ineligible cenvat credit on account of failure to produce documents and few of the documents are in the name of the other unit of the appellant, proceedings were

initiated and for the period from March 2014 to June 2017 and a show notice was issued on 19.11.2018. Thereafter Adjudication Authority as per the order dated 29.03.2019 denied cenvat credit of Rs. 7,84,393/- on the issue of non-production of documents and also demanded the said amount with interest and also imposed equal amount of penalty. However, allowed cenvat credit of Rs. 8,66,187/- on the basis of invoices. Further on invoices pertaining to other units, the cenvat credit of Rs. 7,697/- was denied and equal amount of penalty was imposed. Aggrieved by said order, an appeal was filed before the Commissioner (Appeals) and Commissioner (Appeals) as per the order dated 07.11.2019, remanded the matter for Denovo Adjudication. Thereafter Adjudication Authority as per the order dated 26.03.2021 /05.04.2021 disallowed the cenvat credit again for an amount of Rs. 4,05,927/- (inclusive of cess) and Rs.1,34,695/- alleging that these credits are availed without valid documents and allowed cenvat credit of Rs.12,70,995/-.

3. Aggrieved by said order, an appeal was filed before the Commissioner (Appeals) on the following grounds:-

1. They had availed the credit of Rs. 16,50,580/- on various inputs /capital goods, but they couldn't produce the copies of the invoices during the course of audit.
2. They had availed the credit of Rs.1,34,695/- on ineligible documents.
3. In the first round of litigation, the adjudicating authority has allowed the credit of Rs.8,66,187/- and disallowed credit of Rs.7,84,393/- out of cenvat credit of Rs.16,50,580/- w.r.t issue No.1.
4. Allowed the credit of Rs.1,26,998/- and disallowed Rs.7,697/- out of Cenvat credit of Rs. 1,34,695/- w.r.t issue No.2.
5. In the second round the adjudicating authority has allowed credit of Rs.12,70,995/- and disallowed credit of Rs.4,05,927/- out of Cenvat credit of Rs.16,50,580/- w.r.t issue No.1. and disallowed the entire credit of Rs.1,34,695/-w.r.t issue No.2.

6. The adjudicating authority in the first round of litigation had allowed the Cenvat credit of Rs.1,26,998/-w.r.t issue No.2 and the Department has not at challenged the said part.
 7. The adjudicating authority, in the impugned order was not supposed to disallow the said credit.
 8. They argued that out of total demand of Rs.17,85,275/- the credit of Rs.5,40,622/- only has been disallowed and remaining credit of Rs. 12,70,995/- has been allowed.
 9. They argued that the Range Supdt. verification report is contradicting with Annexure to Order-in-Original.
 10. There is substantial compliance of the provisions of CENVAT Credit Rules, 2004 and the objection is purely procedural /technical lapse.
 11. The relevant factors are known for the Department. Hence no suppression is invocable.
 12. Further, in Order-in-Original it is clarified that the range Superintendent verified the documents like GRN, original invoices JV's PV's, credit notes, etc., even then the credit was denied.
- 3.1 However Appellate Authority rejected the appeal vide impugned order and aggrieved by said order present appeal is filed.
4. When the appeal came up for hearing, Learned Counsel for the appellant draws our attention to the verification report and submits that as per the order, the documents furnished by the appellant was forwarded to Jurisdictional Range Superintendent for confirming the genuineness of document and to ascertain admissibility of credit. The Range Superintendent vide letter dated 14.03.2019 has submitted the report. But alleging that the appellant had failed to produced certain documents on the basis of which they have taken credit during the course of Audit; the cenvat credit availed was denied. Learned Counsel submits that the appellant at the time of hearing submitted the copies of invoices, which they could not produce for verification at the time of Audit as it was mixed up with their Purchase file. The documents furnished by the appellant have been verified by the jurisdictional

Range officer and confirmed that they are valid. The goods are actually supplied by the manufacturer and appellant had copy of valid invoice.

5. Learned Counsel draws our attention to the order issued by the First Appellate Authority in the first round of litigation and as per which it is held that:-

"8. I note that this SCN is an outcome of an audit objection by the Department. The Appellant could not produce valid documents for availing Cenvat credit of Rs. 16,50,580/- during the course of audit. The Range Superintendent subsequently after issuances of SCN, verified the relevant documents and on the basis of his verification report, the Respondent vide subject OIO, has allowed Cenvat credit of Rs. 8,66,187/- and disallowed Cenvat credit of Rs. 7,84,393/-. Secondly the Appellant had taken wrong input credit amounting to Rs. 1,34,695/- on ineligible documents (i.e. documents belongs to other unit). Out of the Cenvat credit of Rs. 1,34,695/- the Respondent has allowed Cenvat credit of Rs. 1,26,998/- and disallowed Cenvat credit of Rs. 7,697/-. The Respondent has discussed at Para No. 12 and 13 in his findings of the impugned OIO that in some cases assessee could not produce valid document to Range Superintendent and prove the receipts of the goods. Therefore, the Respondent has disallowed the Cenvat credit of Rs. 7,84,393/- and Rs. 7,697/-. However, during the Personal Hearing before me, the Appellant submitted copies of relevant invoices, GRN and other documents. However, these verification of facts to be done by the original adjudicating authority therefore in the interest of justice, I have no option but to remand the matter back to the Original Authority for denovo adjudication".

6. Further Learned Counsel submits that even as per the Order-in-Original issued by the Adjudication Authority after Denovo Adjudication, it is categorically stated that:-

"12.1 The co-relation between Range Report 14.03.2019 and order-in-original dated 23.03.2019 is not clear, it is difficult to

reach any conclusive decision based on the above, therefore I have once again verified the invoice /GRN /purchase voucher submitted by the assessee during personal hearing to ascertain the admissibility or inadmissibility of the same.

12.2 The assessee at the time of personal hearing submitted the copies of invoices, GRNs /Purchase voucher which was not produced for verification at the time of audit. The invoices, GRNs /Purchase voucher furnished by the assessee had been verified. Out of 160 Invoices /GRN /Purchase Voucher mentioned in SCN dated 19.11.2018 as well as in OIO dated 23.03.2019, 113 was re-submitted by the assessee which was verified and found to be in order”.

6.1 Thus, the appellant has fulfilled the conditions for claiming the cenvat credit.

7. Learned Authorized Representative (AR) for the Revenue reiterated the finding in the appeal and submits that since assessee failed to produce the invoices, the Adjudication Authority rightly denied the claim partially. It is not in dispute whether the material has been received or used in the production. As per the provision of Rule 3 of Cenvat Credit Rules, 2004, the appellant can take credit of the duties paid on the inputs /capital goods on the basis of documents prescribed under Rule 9 of the Cenvat Credit Rules, 2004. Therefore, in the present case, the appellant have no valid documents to show that how much duty has been paid by the supplier of goods. Now, since the appellant produced most of the documents which has been examined by the Range officer and confirmed its validity. Thus, it is clear that in some cases, the appellant could-not produce valid document for taking credit even after sufficient time has been passed from the date of audit till date of verification by the Range officer. It is found that the appellant does not have valid documents to show that they have received duty paid goods on which duty has been paid to the supplier of goods. As per the provision of Rule 9 of Cenvat Credit Rules, 2004 it prescribes the following valid documents for taking credit;

(1) The CENVAT credit shall be taken by the manufacturer on the basis of any of the following documents, namely:-

(a) an invoice issued by-

(i) a manufacturer for clearance of.....

(2) No CENVAT credit under sub-rule (1) shall be taken unless all the particulars as prescribed under the Central Excise Rules, 2017 are contained in the said document:

Provided that if the said document does not contain all the particulars but contains the details of duty payable, description of the goods, assessable value, Central Excise registration number of the person issuing the invoice, name and address of the factory or warehouse or premises of first or second stage dealers,

8. The learned Authorised Representative further submits that in view of the provision of Rule 9 read with Rule 11 *ibid.* the assessee is entitled for credit on the basis of documents as prescribed thereof, whereas the appellant failed to produce valid documents in certain cases as pointed out for taking credit. Therefore, Adjudication Authority rightly held that appellant is not entitled for credit of Rs. 7,84,393/-. As regards invoking extended period of limitation, since wrong availment of Cenvat credit and utilization of the same for payment of Central Excise duty has come to the light only during the course of Audit by the departmental officers but for which such irregular availment and utilization would have gone unnoticed. Further in terms of Rule 9(5) of the Cenvat Credit Rules, 2004, the appellant is functioning under the 'self-assessment' procedure, the burden of proof regarding the admissibility of the Service Tax Credit shall lie upon the appellant. Thus, considering the misdeclaration of the correct quantum of credit for which they are eligible to avail in their monthly ER-I return and continued to declare /vouch for the correctness of the credit availed without verifying the correctness of the quantum of credit availed and the eligibility of the credits availed, Adjudication Authority rightly upheld

the demand with penalty under Rule 15(2) of the Cenvat Credit Rules 2004 read with Section 11AC(1) (c) of the Central Excise Act, 1944.

9. Heard both sides and perused the records.

10. We find that the first issue is with regard to denial of credit due to non-production of invoices, we find that as per the contention of the appellant, there was a failure on the part of the appellant to submit certain invoices in the first round of litigation and due to that reason Adjudication Authority partially allowed the claim. However, as evident from the remand order issued by the First Appellate Authority, they have produced the entire documents including the invoices. Fact being so, the denial of the credit alleging non-production of invoices prima facie is unsustainable. Further we find that when the matter was referred to Jurisdictional Range Officer, a report was furnished supporting the contention raised by the appellant. Fact being so, adjudication authority ought to have given due consideration to such a report. Further in the absence of any allegation regarding suppression of fact for availing ineligible cenvat credit, the demand along with interest invoking the extended period of limitation and imposing penalties are prima facie unsustainable.

11. As regards the second issue, wherein few of the documents are in the name of the other unit of the appellant and allowed the credit of Rs.1,26,998/- and disallowed of Rs.7,697/- out of cenvat credit of Rs.1,34,695/-, the Department has not challenged the said part and in the absence of any appeal filed by the department challenging the first round of adjudication order, impugned order denying credit of the said amount is prima facie unsustainable. The impugned order confirming the demand along with interest and imposition of penalties on this issue by invoking the extended period of limitation is also unsustainable and liable to be set aside and hence is set aside.

12. As regards the first issue Adjudication Authority is directed to verify the documents /invoices produced by the appellant for the normal period and if they are found satisfactory, cenvat credit shall be allowed. In case any invoice is not available, specific communication shall be

issued directing the appellant to produce the same and Adjudication Authority is directed to complete the denovo proceedings within 4(four) months from the date of receipt of the present order.

13. Accordingly, the Appeal is partially allowed in the above terms by way of remand to the adjudicating authority.

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

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

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