CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 60308 of 2023

[Arising out of Order-in-Appeal No. JNK-EXCUS-APP-215/22-23 dated 24.03.2023 passed by the Commissioner (Appeals), CGST, Jammu]

M/s Cadila Pharmaceuticals Ltd **......Appellant**
Phase-I, Industrial Growth Complex, Samba
Jammu & Kashmir 184121

VERSUS

Commissioner of Central Excise and Service Tax, Jammu & Kashmir **......Respondent**
OB-32, Jammu and Kashmir 180012

APPEARANCE:

Shri Naveen Bindal, Advocate for the Appellant

Shri Kanish Saini, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

FINAL ORDER NO. 61028/2025

DATE OF HEARING: 28.08.2025
DATE OF DECISION: 28.08.2025

The present appeal is directed against the impugned order dated 24.03.2023 passed by the Commissioner (Appeals), Jammu whereby the Commissioner has rejected the appeal of the appellant and upheld the Order-in-Original.

2. Briefly the facts of the present case are that the appellant is engaged in manufacturing of Heam up Gems capsules, Gemicum

Capsules etc. falling under Chapter heading 3004 9099. The appellant was availing cenvat credit facility and was holding central excise registration no. AAACC6251EEM009.

2.2 A show cause notice dated 15.12.2020 was issued to the appellant for recovery of alleged wrongly availed and utilized cenvat credit of Rs. 16,51,284/ by invoking extended period of limitation under Rule 14 of the Cenvat Credit Rules, 2004 read with Section 11A of the Central Excise Act, 1944 along with interest under Rule 14 of the Cenvat Credit Rules, 2004 read with Section 11AA of the Act on the ground that during the audit of the Appellant's unit for the period April 2015 to June' 2017, it was noticed that the Appellant has availed the above cenvat credit on improper invoices, wherein the particulars mentioned on the invoices didn't match with the actual credentials/particulars, like excise registration number, name etc. of the appellant, especially when the units whose particulars are mentioned on invoices exist as independent entities different from the Appellant's company. It was further mentioned in the show cause notice that Rule 9(2) of the Cenvat Credit Rules, 2004 provides that no cenvat credit under sub-rule (1) of the Cenvat Rules shall be taken unless all the particulars as prescribed under the Central Excise Rules, 2002 are contained in the said document. In terms of Rule 11 of the Central Excise Rules, 2004, the goods are required to be removed on invoice and sub-rule (2) of Rule ibid stipulates that such an invoice shall be serially numbered and shall contain the registration number, address of the concerned Central Excise Division, name of the consignee, description, classification, time and date of removal, mode of transport and vehicle registration number, rate of duty. quantity and value of goods and the duty payable thereon. In terms of sub-rule (3), the invoice shall be prepared in triplicate. The grounds of non conformity of the invoices to the rules because of which the credit is not admissible are mentioned against each invoice enumerated in Annexure - A to the show cause notice.

2.3 The appellant filed detailed reply dated 30.12.2020 and additional submissions dated 21.09.2021. After following the due process, the adjudicating authority vide order-in-original dated 29.12.2021 disallowed and ordered recovery of whole of cenvat credit. Feeling aggrieved, the appellant filed the appeal dated 28.02.2023 before Ld. Commissioner (Appeals) who has dismissed the appeal of the appellant. Hence, the present appeal.

3. Heard both the parties and perused the material on record.

4. the learned counsel for the appellant submits that the impugned order is not sustainable in law as the same has been passed without properly appreciating the facts and the law. He further submits that earlier the name of appellant's unit was Casil Industries Limited, which was changed to Cadila Pharmaceuticals Limited Unit-II after approval of amalgamation of appellant's company with Cadila Pharmaceuticals Limited by the Hon'ble High Court of Gujarat and the change in name of the appellant's company was approved by registrar of companies on 11.01.2016. The learned counsel further submits that as per the annexure-A to the show cause notice, containing details of total 320 invoices of purchase of

various inputs relating to the period February, 2016 to June, 2017, following discrepancies were detected:

- In some of invoices, the name of appellant's unit is mentioned as M/s Cadila Pharmaceuticals Limited instead of M/s Cadila Pharmaceuticals Limited Unit - II.
- In one invoice mentioned at serial no. 36 of Annexure-A, the name of appellant's unit is mentioned as Casil Industries.
- In some of invoices, the excise registration number of appellant is mentioned as AAACC6251EXM001 AAACC6251EXM002 or AAACC6251EXM007 instead of correct excise registration number of AAACC6251EEM009.

4.2 He further submits that in fact there are five units of appellant's company at different locations in India. He further submits that in the show cause notice, it is nowhere disputed that in all the disputed purchase invoices, the appellant's premises address is correctly mentioned as Industrial Growth Centre (IGC), SIDCO Industrial Complex, Samba (J&K). Further, in the show cause notice, there was no dispute raised about the fact of actual receipt and utilization of inputs covered by disputed invoices in appellant's factory premises for the manufacture of excisable finished goods and clearances of these manufactured finished goods on payment of applicable central excise duty by the appellant. He also submits that the only allegation raised in the show cause notice was either regarding mentioning of incomplete name of the appellant's unit in purchase invoices i.e. mentioning unit name as M/s Cadila Pharmaceuticals Limited instead of M/s Cadila Pharmaceuticals

Limited Unit-II or mentioning of wrong excise registration number of other units of the appellant's company. The learned counsel further submits that as regards the mentioning of incomplete name of appellant's unit in the invoices by the suppliers, it can only be considered as a case of un-intentional clerical mistake on part of suppliers for which the appellant should not be penalized. He further submits that when there is correct address of the appellant's unit mentioned on these purchase invoices, no adverse conclusion can be drawn against the appellant. He further submits that these clerical mistakes should be condoned.

4.3 As regards to the ground of mentioning of wrong excise registration number AAACC6251EXM001 or AAACC6251EXM002 or AAACC6251EXM007 on some of purchase invoices instead of appellant's excise registration number AAACC6251EEM009, he submitted that it can only be considered as a case of clerical mistake on part of suppliers for which the appellant should not be penalized. He also submits that since the appellant has number of units at different locations in India and the suppliers of inputs are common for these units and it cannot be denied that a mistake in mentioning correct excise registration number of a particular unit can be made by the supplier considering involvement of number of units of the same company and one common PAN under which all units are operating. He also submits that when there is correct address of appellant's unit mentioned on these purchase invoices, no adverse conclusion should be drawn in the present case. He also submits that there is Goods Receipt Note (GRN) issued on receipt of a consignment of inputs etc. in their factory premises and further entry is made in stock/quantity register/GRN register maintained by appellant and it is not disputed that the inputs have not been received in the appellant's factory. He further submits that the finished goods mentioned by all the three other units of appellant having different registration numbers are totally different from the finished goods manufactured by the appellant's unit and therefore, raw material/ inputs purchased by the appellant's unit are of no use in these three other units; even the packing materials purchased by all these units are not useable by any other unit.

4.4 The learned counsel further submits that the finance/account's head of all the three other units of the appellant have issued certificate that there is no Cenvat credit availed in respect of disputed 320 purchase invoices mentioned in annexure-A in the show cause notice; besides this, the appellant has also enclosed a certificate dated 29.12.2020 issued by Chartered Accountant certified based on verification of books of accounts and other records of the appellant's unit that they had duly received the inputs as mentioned in various invoices annexed with the show cause notice. The learned counsel further submitted that the Revenue has wrongly relied upon the provisions of Rule 9(2) of the Cenvat Credit Rules, 2004 read with Rule 11 of the Central Excise Rules, 2002. He also submitted that the combined reading of the Rule 9(1), Rule 9(2) of the Cenvat credit Rules, 2004 and Rule 11(2) & Rule 11(3) of the Central Excise Rules, 2002 clearly provides that Cenvat credit of excise duty paid on inputs received by the manufacturers can be availed on the basis of the invoice issued by the supplier in accordance with the provisions of Rule 11(2) & 11(3) of the Central Excise Rules, 2002.

4.5 The learned counsel for the appellant further submits that demand has been confirmed by invoking the extended period of limitation, whereas the appellant has not suppressed any material fact and the show cause notice was issued on the basis of audit and it is a settled law that extended period cannot be invoked based on an audit. In support of his submissions, he relied upon the following cases:

- *Plastic Products Engg. Co. Vs. Commissioner Ahemdabad of C. Ex., 2009 (248) E.L.T. 859 (Tri.- Ahmd.)*

- *Ama India Enterprises Pvt. Ltd. Vs. Commissioner of C. Ex. & S.T., Ludhiana, 2015 (316) E.L.T. 268 (Tri.-Del.)*

- *Bharti Airtel Ltd. Vs. Commissioner of Central Excise, Panchkula, 2016 (43) S.T.R. 400 (Tri.-Del.)*

- *Bhalla Techtran Industries Ltd. Vs. CCE, Noida, 2016 (342) ELT 448 (Tri. Del)*

- *Krishna Maruti Limited Vs. CCE, Delhi-III, 2012 (277) ELT 357 (Tri. Delhi)*
- *Novozymes South Asia Pvt. Ltd. Vs. CCE, Bangalore, 2015 (38) STR 204 (Tri. Banglore)*
- *Uniworth Textiles Ltd. Vs. Commissioner of Central Excise, Raipur, 2013 (288) E.L.T. 161 (S.C.).*
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5. On the other hand, learned authorized representative for the department reiterated the findings of the impugned order.

6. I have considered the submissions of both the parties and perused of the material on record, I find that during the audit of the appellant’s unit some discrepancies were noticed in some of the invoices, the name of the appellant’s unit is mentioned as M/s Cadila Pharmaceuticals Limited instead of M/s Cadila Pharmaceuticals Limited Unit-II and in one of the invoices, the name of the appellant’s unit is mentioned as Casil Industries Limited and further in some of the invoices registration number of the other unit of the appellant is mentioned. Further, I find that in the show cause notice, nowhere it is disputed that the address of the appellant wrongly mentioned and that the appellant have not received the goods in their Unit II. Further, it is not disputed that the said goods were used and final product was cleared on payment of duty, the only mistake regarding the non-mentioning of the correct name of the unit is a rectifiable mistake and is clerical in nature and therefore, it cannot be taken for the purpose of denial of Cenvat credit. Further, I find that in one of the invoices, the name of the appellant’s earlier company i.e. Casil Industries is mentioned whereas the fact is that earlier name of the appellant’s unit was M/s Casil Industries Ltd which was changed to Cadila Pharmaceuticals Limited Unit-II after approval of amalgamation of appellant's company with M/s Cadila Pharmaceuticals Limited by the Hon'ble High Court of Gujarat and the change in the name of the appellant's company was approved by registrar of companies on 11.01.2016 and thereafter, the department was accordingly informed.

6.2 Further, I find that in order to prove their bona fide, the account's head of all the three units of the M/s Cadila Pharmaceutical Limited having different registration number have issued certificate that there is no credit availed in respect of disputed 320 purchase invoices mentioned in annexure-A to the show cause notice and further the Chartered Accountant has also issued a certificate dated 29.12.2020 certifying on the basis of verification of the books of accounts and the records maintained by the appellant stating that the appellant has duly received the inputs such as raw material, packing materials and consumables under the duty paying documents listed in serial no. 1 to 320 in annexure-A of show cause notice dated 15.12.2020 and accounted for in their books of accounts and other records. Further, I find that proviso to Rule 9(2) of the Cenvat credit Rules, 2004 in a very explicit and clear language provides that the Central Excise may allow the Cenvat credit of the Excise duty paid on inputs received by the assesee, even if the invoice of the inputs received by the assessee does not contain all of the prescribed particulars mentioned in an invoice but contains details of the excise duty payable, description of the goods, assessable value, Central Excise registration number along with name and address of the person issuing the invoices provided the goods as covered under the said invoices are received and duly accounted for in the books of accounts of the receiver which I find that in this case, the appellant has fully complied.

7. Further, I find that invoking the extended period of limitation without establishing any of the ingredients provided in proviso to

Section 11(1A) is not sustainable in law. Further, I find that the decision relied upon by the appellant are merely on the ground that if there are clerical or rectifiable mistakes in the Cenvat credit the credit should not be denied merely on these technical violations.

8. In view of my discussion above and by following the ratio of the decisions cited (Supra), I am of the considered opinion that the impugned order is not sustainable in law on merits as well as on limitation, therefore, I set aside the same by allowing the appeal of the appellant with consequential benefits if any as per law.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

Kailash