CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 50938 of 2015

[Arising out of Order-in-Original No. CHD-CEX-001-COM-89-90 dated 23.12.2014 passed by the Commissioner of Central Excise, Chandigarh-I]

Kandhari Beverages Pvt Ltd **......Appellant**
Village- Nabipur, Fatehgarh Sahib,
Mandi Gobindgarh, Punjab-140406

VERSUS

Commissioner of Central Excise, Chandigarh-I **......Respondent**
Central Revenue Building, Plot No. 19,
Sector-17-C, Chandigarh-160017

WITH

Excise Appeal No. 60710 of 2018

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-316-2018 dated 21.02.2018 passed by the Commissioner (Appeals), Central Goods & Service Tax ,Ludhiana]

Kandhari Beverages Pvt Ltd **......Appellant**
Village- Nabipur, Fatehgarh Sahib,
Mandi Gobindgarh, Punjab-140406

VERSUS

Commissioner of Central Excise and Service Tax, Ludhiana **......Respondent**
GST Bhawan, F-Block, Rishi Nagar, Ludhiana, Punjab-141001

APPEARANCE:

Ms. Krati Singh and Shri Monarch Mittal, Advocates for the Appellant
Shri Anurag Kumar and Ms. Amita Gupta, Authorized Representatives for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60223-60224/2026

DATE OF HEARING: 23.02.2026
DATE OF DECISION: 09.03.2026

P.ANJANI KUMAR :

M/s Kandhari Beverages Pvt Ltd. are engaged in the manufacture of beverages; they, *inter alia* manufacture "Minute maid Nimbu Fresh"; the appellants avail CENVAT credit during the course of audit department observed that the appellants classified Minute maid Nimbu Fresh under sub-heading 22029020 of first Schedule of Central Excise Tariff Act instead of under 22021020; that the appellants availed CENVAT credit on services used in relation to disposal of waste and conduct of survey to check the air pollution levels. Accordingly, show cause notices, dated 22.04.2014 and 30.06.2014 demanding duty of Rs. 1,33,74,205/- on Minute maid Nimbu Fresh and demand of CENVAT credit of Rs. 2,77,033/- on the disputed services availed, were issued, along with interest and penalties covering the period 01.04.2009 to 30.04.2014. Another show cause notice dated 09.01.2015 was issued to the appellants demanding central excise duty of Rs. 3,98,335/- on the Minute Maid manufactured by them during the period May, 2014 to October, 2014. The proposals in the Show Cause Notice dated 22.04.2018 were confirmed vide the impugned order dated 23.12.2014 passed by the Commissioner. The proposals raised in the Show Cause Notice 09.01.2015 were confirmed vide the Order-in-Original, dated 19.11.2015, passed by the Assistant Commissioner and was upheld by the Order-in-Appeal dated 21.02.2018. Hence, these appeals.

2. Ms. Krati Singh. Learned counsel for the appellants submit that the issue of classification of Nimbu fresh is no longer *res integra* having been decided by the larger bench of the Tribunal in the case of Brindavan Beverages pvt ltd. and others, 2019 (10) TMI 762 CESTAT holding that Nimbu Fresh containing a minimum of five percent of fruit juice is classifiable under 22029020 only and therefore, a demand on this count cannot be sustained. She also submits that for the subsequent period i.e. November, 2014 to June, 2017 the issue has been settled in their favor, in their own case, by the Commissioner (Appeals), Ludhiana vide OIO dated 09.03.2020. She also relies on the following cases:

- Brindavan Beverages Private Limited and Ors., 2019 (10) TMI 762-CESTAT Allahabad and 2019 (7) TMI 2053- CESTAT-Allahabad,
- M/s Hindustan Coca Cola Beverages Pvt Ltd, 2024 (10) TMI 976-CESTAT Allahabad, 2024 (6) TMI 1177-CESTAT Allahabad, 2022 (11) TMI 595-CESTAT Mumbai, 2019 (7) TMI 2043-CESTAT Allahabad and 2019 (6) TMI 1731-CESTAT Allahabad.

3. Learned Counsel for the appellants submits that the CENVAT Credit was correctly availed by the appellants on the services related to disposal of waste; the removal of waste is statutory condition; paras 4.5.3 and 4.5.4 of the regulations issued under the Factories Act, 1948, mandate that the appellant dispose of the waste from their premises periodically. She submits that CESTAT, New Delhi in the case of Hindustan Zinc Ltd., 2017 (7) TMI 387, CESTAT, New Delhi held that credit of such services is available to the appellants; Revenue itself has allowed the credit on the same for the subsequent

period by the OIA dated 28.03.2018 and 05.10.2018. Regarding the services related to the conducting of survey she submits that the appellant was conducting the survey as per the requirement of their principals i.e. Coco Cola company; the ambit of input services, even after amendment in 01.04.2011, is very wide to include any services used by the manufacturer directly or indirectly in relation to the manufacture of final product; therefore, credit cannot be denied.

4. Learned Counsel for the appellants also submits that there were some mistakes in the quantification of the duty and that the Show Cause Notice dated 22.04.2014 invoked extended period without any valid reason; extended period cannot be invoked when the proceedings are initiated on the basis of audit as held in FMI Automotive Components Ltd., 2025 (2) TMI 141- CESTAT-Chandigarh. She submits moreover that the appellants had a bonafide belief on the issues involved in the case; therefore, no *mens rea* cannot be alleged as there was no suppression in the statement etc. with the intent to evade payment of duty; it was held in Clix Capital Services Pvt Ltd., 2025 (5) TMI 1830-CESTAT-Chandigarh and M/s Bharti Airtel Ltd. 2021 (4) TMI3 06-CESTAT-Bangalore that extended period cannot be invoked when the issue is interpretational in nature and penalty can also be not imposed as held in M/s Consolidated Coin company Pvt Ltd, 2024 (10) TMI 320-CESTAT-Chandigarh.

5. Shri Anurag Kumar and Ms. Amita Gupta, Learned Authorized Representatives appearing for the Revenue reiterated the findings of the impugned order.

6. Heard both sides and perused the records of the case. Regarding the classification of the Minute Maid Nimbu Fresh containing more than five percent of the fruit pulp under 22029020 was settled by the larger bench of the Tribunal in the case of Brindavan Beverages (supra) held that

> 64. The fruit juice content of lime or lemon juice in MMNF, Nimbu Masala Soda or Nimbooz has been indicated to be not less than 5% and the Total Soluble solids is also not less than 10%. All the three products namely MMNF, Nimbu Masala Soda and Nimbooz, satisfy the requirements of Regulation 2.3.10 or Regulation 2.3.30. These products, therefore, would classify under Tariff Item no. 2202 90 20 as fruit juice based drinks. The Mumbai Tribunal in Hindustan Coca Cola was, not justified in holding that the Regulations are not required to be examined.
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> 65. The irresistible conclusion, therefore, that follows from both the common parlance test and the supporting legislation test is, therefore, that the three products MMNF, Nimbu Masala Soda and Nimbooz would classify under Tariff Item No. 2202 90 20 as fruit juice based drinks.
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> 66. It can however be urged that even when lemon or lime juice is added to water as a flavoring agent, the product can still be called lemonade. Though it has to be seen whether the product is essentially waters with added flavour or whether lemon juice is the basis of the fruit drink, but the answer also lies in the definition of "non carbonated ready to serve fruit beverages" under Regulation 2.3.10 and "carbonated fruit beverages and fruit drinks" under Regulation 2.3.30. It would follow from these Regulations that even when lime juice is added but the fruit content of lime or lemon juice is not less than 5%, the product would be classified as fruit juice based drinks but if the lime or lemon juice content is less than 5%, then it would classify as lemonade.

7. Coming to the credit of services utilized in the dispose of waste, we find that principal bench in the case of Hindustan Zinc Ltd (supra) held that

> 8. Having considered the rival contentions, we find that the appellant assessee cannot operate their business or manufacturing facility of dutiable / excisable goods without compliance with the directions given by State Pollution Control Board to minimize the pollution under the relevant Pollution Control laws. Compliance with the directions of the State Pollution Control Board if not done by the appellant industry, may result in prosecution of the appellant company and its key personnel under the various Pollution Control laws for violation. Accordingly, we hold that the cenvat credit received on the services for raising the height of tailing dam and maintenance service for pipeline work of tailing dam, used for disposal of industrial waste and polluted water in compliance with Environmental laws is an input service within the meaning of Rule 2(1) of Cenvat Credit Rules, 2004 used by the manufacturer indirectly in or in relation to the manufacture of final products and clearance of final products from the place of removal. Similarly, the cenvat credit on services procured for construction of secured land fill and jerofix storage pond, which are used for disposal of industrial waste and polluted water in compliance with Environmental laws is an input service received by the manufacturer indirectly in relation to the manufacture of final products. Accordingly, we hold that the cenvat credit in dispute is allowable to the appellant. Accordingly, we allow these appeals and set aside the impugned order. The appellant shall be entitled to consequential relief, if any.

8. Coming to the credit of services replaced credit of Rs. 1,64,800/- on the service of conducting survey of the area around the factory premises for checking the air pollution, we find that the definition of

input services before or after 01.04.2011 is too wide and includes any services which are used by the manufacturer directly or indirectly in relation to the manufacture of final products. We find that the survey of the surroundings for air pollution was requirement of M/s Coca Cola India, the principals of the appellant. Understandably, the company intends to check the air pollution of the surroundings in order that the quality of the beverages manufactured is maintained as per their standards. As such, it cannot be assumed that these services are not required in the manufacture of final products. The principals could not have permitted the appellants to go ahead with the establishment of the plant and production of beverages in case the appellants did not adhere to the conditions, with a view to maintain the quality standards. Therefore, we are of the considered opinion that the activity is integrally connected to the activity of the appellants and hence credit cannot be denied. When the demand of duty as well as CENVAT credit does not survive there is no question of imposition of penalties.

9. In view of the above, we find that all the issues raised in the impugned order are settled/decided in favor of the appellants. Accordingly, both the appeals are allowed.

(Order pronounced in the open court on 09.03.2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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