CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 60222 of 2019

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-1910-18 dated 19.11.2018 passed by the Commissioner (Appeals), CGST, Ludhiana]

Satyam Auto Components Ltd ......**Appellant**
Village Mangarh, Machiwara Road,
Kohara, Ludhiana, Punjab 141112

VERSUS

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

APPEARANCE:

Mr. B.L. Yadav, Consultant for the Appellant

Mr. Ram Niwas, Authorized Representative for the Respondent

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

FINAL ORDER NO. 60249/2026

DATE OF HEARING: 20.11.2025
DATE OF DECISION: 17.03.2026

S. S. GARG :

The present appeal is directed against impugned Order-in-Appeal dated 19.11.2018 passed by the Commissioner (Appeals) CGST, Ludhiana, whereby the learned Commissioner (Appeals) has rejected the appeal of the Appellant and upheld the Order-in-Original.

2. Briefly stated facts of the present case are that the Appellant are engaged in the manufacture of excisable goods falling under Chapters 84 & 87 of the Central Excise Tariff Act, 1985. During the course of audit, it was observed that during the period from 17.03.2012 to 27.09.2013, the Appellant had cleared the capital goods without payment of central excise duty of Rs.1,48,318/- as applicable in terms of Rule 3(5A) of the Cenvat Credit Rules, 2004. On this allegation, a show cause notice dated 31.03.2017 was issued to the Appellant, which was adjudicated by the Adjudicating Authority vide Order-in-Original dated 27.02.2018, vide which demand of Rs.1,48,318/- was confirmed under Rule 14 of the Cenvat Credit Rules, 2004 read with Section 11A of the Central Excise Act, 1944, along with interest under Section 11AA of the Act. An equal penalty under Rule 15 of the Cenvat Credit Rules read with Section 11AC of the Act was also imposed. Aggrieved by the said Order-in-Original, the Appellant filed appeal before the Commissioner (Appeals), who vide the impugned Order-in-Appeal, has rejected the appeal of the Appellant. Hence, the present appeal.

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

4. The learned Consultant for the Appellant submits that the impugned order is not sustainable in law as the same has been passed without properly appreciating the facts & the law and binding judicial precedents.

4.1 He further submits that the entire demand is barred by limitation as the show cause notice was issued on 31.03.2017 pertaining to period from 17.03.2012 to 27.09.2013. He also submits that the show cause notice was issued on the basis of the audit and all information were given to the audit team at the time of audit and there was no suppression on the part of the Appellant with intent to evade payment of duty. He further submits that the Appellant were under a *bona fide* belief that capital goods cleared as waste & scrap do not attract any duty because the said goods were consumed and not cleared as such. He further submits that the show cause notice was issued on the basis of audit objection without making any independent enquiry and figures of credit were taken from the returns/records of the Appellant. He further submits that the Appellant had intimated that the capital goods, on which credit was taken, are consumed and are not cleared from the factory of the Appellant; this fact is mentioned in the show cause notice, even then show cause notice was issued and demand was confirmed on presumption that the said capital goods were cleared as waste & scrap. He further submits that there is no evidence of any removal of such capital goods from the factory of the Appellant.

4.2 He further submits that prior to the impugned period, i.e. 17.03.2012 to 27.09.2013, and after the impugned period till date, the amount payable on the clearance of capital goods as waste & scrap has been equal to the duty leviable on transaction value.

4.3 He also submits that assumption of the Commissioner (Appeals) that capital goods were cleared as waste & scrap gives absurd result of denial of 97.5% of credit in respect of duty paid capital goods received and used in relation to manufacture of dutiable final product of the Appellant which is against the nature of indirect tax/Cenvat Credit.

4.4 He further submits that during the impugned period, there was no mechanism for recovering the amounts payable under Rule 3(5A) of the Cenvat Credit Rules but not paid; the provision came in 2014; therefore, the demand along with interest and penalty are not sustainable.

4.5 He further submits that the present case is squarely covered by the decision of New Delhi bench of the Tribunal in the case of ***M/s Prism Johnson Ltd vs. Commr of CGST & CE, Jabalpur [2019 (7) TMI 780 CESTAT NEW DELHI]***.

5. On the other hand, the learned Authorized Representative for the Revenue reiterates the findings of the impugned order.

6. We have considered the submissions made by both the parties and perused the material on record. First, coming to the issue of limitation, we find that the period involved in the present case is from 17.03.2012 to 27.09.2013 whereas the show cause notice was issued on 31.03.2017 on the basis of audit objection without making any independent enquiry. We also find that the Appellant have been filing returns regularly and on the basis of figures shown in the returns and other documents, the show cause notice was issue. It is a settled law that extended period of limitation cannot be invoked on the basis of audit has held in the following cases:

- **Maruti Suzuki India Ltd – 2024 (4) TMI 724 CESTAT Chandigarh**
- **Hoshiarpur Automobiles – 2024 (4) TMI 432 CESTAT Chandigarh**
- **Sunshine Steel Industries - (2023) 8 Centax 209 (Tri. Del.) -** affirmed by Hon'ble Supreme Court **(2023) 8 Centax 210 (SC)**

Further, we find that the department has not been able to bring on record any evidence to establish that there was a suppression on the part of the Appellant with intent to evade payment of duty. Further, we also find that the provision of Rule 3(5A) of the Cenvat Credit Rules, 2004 was subject to amendment from time to time and the Appellant had the bona fide belief that they were not required to pay duty on the clearance of waste & scrap. Hence, on the issue of limitation, we hold that entire demand is barred by limitation.

7. On the merits of the case, we find that during the relevant period, i.e. from 17.03.2012 to 27.09.2013, there was no mechanism for recovering the amounts payable under Rule 3(5A) of the Cenvat Credit Rules but not paid during the period. The recovery provision for wrongful availed credit came in 2014. Therefore, in the absence of recovery mechanism, the demand cannot be sustained; and when the demand itself is not sustainable, the question of interest and penalty does not arise.

8. Further, we find that the present case is fully covered by the decision of the Tribunal in the case of ***M/s Prism Johnson Ltd*** (supra) wherein also, the demand under similar circumstances was set aside on merits as well as on limitation.

9. Therefore, by following the ratio of the said decision, we set aside the impugned order on merits as well as on limitation and allow the appeal of the Appellant.

(Order pronounced in the open court on 17.03.2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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