CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. I

Excise Appeal No. 40445 of 2015

(Arising out of Order-in-Original No. LTUC/432/2014-C dated 02.12.2014 passed by Commissioner of Customs, LTU, No. 1775, Jawaharlal Nehru Inner Ring Road, Anna Nagar Western Extension, Chennai - 600 101)

M/s. Hyundai Motor India Ltd. **...Appellant**
Plot No. H-1, SIPCOT Industrial Park,
Irungattukottai,
Kancheepuram – 602 105.

Versus

Commissioner of GST and Central Excise **...Respondent**
Chennai LTU Commissionerate,
No. 1775, Jawaharlal Nehru Inner Ring Road,
Anna Nahar Western Extension,
Chennai – 600 101.

And

Excise Appeal No. 40546 of 2015

(Arising out of Order-in-Original No. LTUC/432/2014-C dated 02.12.2014 passed by Commissioner of Customs, LTU, No. 1775, Jawaharlal Nehru Inner Ring Road, Anna Nagar Western Extension, Chennai - 600 101)

Commissioner of GST and Central Excise **...Appellant**
Chennai LTU Commissionerate,
No. 1775, Jawaharlal Nehru Inner Ring Road,
Anna Nahar Western Extension,
Chennai – 600 101.

Versus

M/s. Hyundai Motor India Ltd. **...Respondent**
Plot No. H-1, SIPCOT Industrial Park,
Irungattukottai,
Kancheepuram – 602 105.

APPEARANCE:

For the Assessee : Shri S. Muthu Venkataraman, Advocate
For the Revenue : Shri M. Selvakumar, Authorised Representative

CORAM:
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER Nos. 40066-40067 / 2025

DATE OF HEARING : 17.12.2024
DATE OF DECISION : 09.01.2025

Order :- Per Mr. VASA SESHAGIRI RAO

Excise Appeal No. E/40445/2015 has been filed by M/s. Hyundai Motor India Ltd. (hereinafter referred to as 'Assessee') being aggrieved by the impugned Order-in-Original dated 02.12.2024 passed by the Commissioner of Central Excise, LTU confirming the demands of Rs.3,54,57,994/- under Rule 14 of Cenvat Credit Rules, 2004 (CCR) read with Section 11A(4) of Central Excise Act, 1944 (ACT) and imposing penalty of Rs.1,77,28,997/-, under Rule 15(2) of CCR read with Section 11AC of the ACT. Whereas Excise Appeal No. E/40546/2015 has been filed by the Revenue assailing the said Order-in-Original against dropping of interest on recovery of ineligible Cenvat Credit under Rule 14 of CCR. Both the Appeals involving the same impugned order are being taken up together for disposal by issuance of this common order.

2. Facts as culled out from the Appeal are that, the Assessee, who is engaged in the manufacture and trading of motor cars had availed irregular Cenvat Credits during the period from 2009-10 to 2011-12 and had reversed the credits amounting to Rs.2,75,51,787/- subsequently on being pointed out by the Revenue. However, the Revenue felt that such reversal of wrong Cenvat credit was liable to be recovered along with interest of Rs. 79,32,352/-under Rule 14 of CCR. Other issues taken up by the department pertained to ineligible Cenvat credit of Rs.79,25,843/- which was availed on Roadside Assistance Service, input service credit on service utilised for study on Automobile Manufacturing Investment, credit on demurrage charges incurred, credit taken on traded goods, credit taken on canteen equipment

and maintenance and double credits which were not reversed. A Show Cause Notice was issued to the Assessee seeking recovery of ineligible Cenvat along with applicable interest under Rule 14 of CCR read with Section 11 A of the Act, besides proposing to impose penalty under Rule 15(2) of CCR read with Section 11AC of the ACT. The Adjudicating Authority confirmed the demands proposed in the said SCN's and imposed penalty of 50% of confirmed demand but dropped the levy of interest of Rs. 79,32,252/-on ineligible Cenvat Credit for which reversals were subsequently made by the Assessee. Hence, appeals were preferred before this forum by the Assessee and the Revenue.

3. The main contentions of the Assessee as evident from the Grounds of Appeal are as follows: -

i. It was submitted that Road Side Assistance being an activity related to business in the nature of sales promotion activity and therefore Cenvat credit could not be denied in terms of Rule 2(l) of CCR prior to and also Post April 2011. It was averred that excise duty was paid on the Road Side Assistance Service by including it in the transaction value of the manufactured Car and denial of Cenvat credit will not be legally sustainable. Reliance was placed on the ratio of the decisions in *Escorts Construction Equipments Ltd. Vs. Commissioner of Central Excise, Delhi-IV [2014 (33) STR 102 (Tri.-Del.)], CCE, Vadodara Vs. Danke Products [2009 (16) STR 576 (Tri.-Ahmd.)]* and *Samsung Electronics Pvt. Ltd. [2009 (16) STR 570 (Tri.-Del.)]*

ii. It was submitted that the study on investment was covered as an input service under Rule 2(I) of CCR as it related to manufacturing in the premises and the study was incidental to the setting up of the factory premises.

iii. It was contended that the denial of Cenvat on demurrage charges was not sustainable, as the penal charges were paid to procure material for manufacturing and hence service tax paid on it could be considered as input service.

iv. It was averred that the Penalty imposed was unsustainable as there was sufficient balance of cenvat Credit and more than Rs. 70 Crores was lying in credit balance. In this regard reliance was placed on the following decisions: -

(a) *E.I. Dupont India Pvt. Ltd. Vs. CCE, Vadodara [2007 (220) ELT 169 (Tri.-Ahmd.)]*

(b) *Central Warehousing Corporation Vs. Commissioner of Service T, Ahmedabad [2013 (30) STR 556 (Tri.-Ahmd.)]*

(c) *Lakshmi Machine Works [2011 (63) ELT 625]*

(d) *Stellar Chemicals Laboratories Vs. Commissioner of Central Excise, Vadodara [2001(134) ELT 504 (Tri.-Mumbai)]*

4. Whereas the contentions of the Revenue on the issue of levy of interest on illegal / ineligible Cenvat credit availed by the Assessee are: -

i. That the decision in the impugned order to waive interest was legally not tenable as the issue was settled by Hon'ble Supreme Court in the case of *M/s. Ind-Swift Laboratories Ltd. [2011 (265) ELT 3(SC)]* wherein it was held that interest was payable from the date of taking credit.

ii. It was pointed out that that the above decision of the Apex Court was followed in *M/s. Sundaram Fastners Ltd. [2004 (304) ELT 7 (Mad)*] wherein it was held that as per Rule 14, interest obligation arises on happening of any of the three circumstances *viz*. (i) Credit taken or (ii) Credit utilised wrongly or(iii) Credit erroneously refunded.

5. The Ld. Counsel Shri S. Muthuvenkataraman representing the Assessee have reiterated the averments in the grounds of appeal and prayed for setting aside the impugned order as the demands confirmed and penalty imposed therein were not sustainable. Regarding, dropping of demand of interest, he maintained that the impugned order had correctly held that interest was not leviable by relying on the decision of Karnataka High Court in the case of *Commissioner of Central Excise & Service Tax, LTU, Bangalore Vs. M/s. Bill Forge Pvt. Ltd. [2012 (279) E.L.T. 209 (Kar.)]* and hence prayed for dismissing the appeal filed by the Department.

6. The Ld. Authorised Representative Shri M. Selvakumar, representing the Revenue affirmed the findings of the Original Adjudicating Authority and submitted that the availment of Cenvat Credit on roadside assistance was not covered within the purview of definition of input service under Rule 2(l) of CCR as the service was utilised beyond the place of removal. It was pointed out that cost of service was included in the transaction value does not automatically mean inclusion of the service in the definition of 'input service'. It was submitted that credit availed on research activity could not be allowed as it cannot be said to be directly or indirectly connected to the manufacturing process and does not fall under the definition of input service. Regarding credit availed on service tax paid on demurrage charges, it was submitted that the CBIC had clarified vide Circular No. 121/2010-ST dated 26.04.2010 that detention charges were not

liable for service tax and hence the Assessee could not avail credit on service tax inadvertently charged by the Port authorities. It was pointed out that the Special Audit was conducted by the department from 30.04.2012 and reversals were made in the latter half of 2012 and hence the penalty imposed in the impugned order was legally justified.

7. We have carefully considered the submissions made by both the sides and also evidences available on records.

8. The issues that arise for decision in these appeals are: -

i. Whether the Assessee is eligible to take input service credit on Road Side Assistance Service, Market Research and Service Tax paid on Demurrage and, whether the penalty imposed was justified? and,

ii. Whether demand of interest would be attracted on Cenvat Credit wrongly taken in the Books but not utilised?

9. As the issues relate to availment of Cenvat Credit, we find it important to reproduce the definition of Input service as per Rule 2(l) of CCR, 2004: -

"[2(l) "Input service" means any service, -

(i) used by a provider of taxable service for providing an output service; or

(ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal, and includes services used in relation to modernisation, renovation or repairs of a factory, premises of provider of

> *output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal;"*

The Rule 2(l) of CCR, 2004 (insofar as it relates to the manufacture of final product is concerned), consists of three categories of input services. The first category covers services which are directly or indirectly used in or in relation to the manufacture of final products. The second category covers the services which are used for clearance of the final products up to the place of removal. The third category, includes services namely;

(a) Services used in relation to setting up, modernization, renovation or repairs of a factory,

(b) Services used in an office relating to such factory,

(c) Services like advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs,

(d) Activities relating to business such as, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit relating, share registry and security, inward transportation of inputs or capital goods and outward transportation upto the place of removal.

10. We will now proceed to discuss the disputes regarding eligibility of Cenvat Credit in respect of various services:

10.1 **Cenvat Credit on Road Side Assistance-Rs.61,73,517/-**:

Road side assistance (RSA) is an emergency service provided to Customers in the event of breakdown of a vehicle similar to warranty offered to customers by the Assessee during the initial period of warranty. Ld. Counsel for the Assessee submitted that the cost of RSA having been included in the transaction value for payment of duty, the value of warranty and service of RSA was a post manufacturing activity and therefore would qualify for input service credit. The Ld. Authorised Representative has vehemently argued that the activity is neither directly nor indirectly connected to the manufacture of cars and therefore would not fall within the scope of definition of input service. We find that the impugned Order-in-Original No. LTUC/432/2014-C dated 02.12.2014 has denied considering the issue based on the decision of the Hon'ble High Court, Mumbai in the case of *CCE, Nagpur Vs. M/s. Ultratech Cement [2010 (260) ELT 369 (Bom.)]* citing that the issue had not attained finality due to the pendency of departmental appeal against the said order of the High Court. We find that the Apex Court had since dismissed the appeal of the department on monetary limits on 06.02.2019. We have gone through Section 4(3) of the Central Excise Act, 1944 and we find that the transaction value means the price actually paid or which are payable for the goods when sold and those includes servicing and warranty also. Admittedly the service and warranty is post manufacturing expenses which are to be provided to the customer after the sale. As per the provision of Section 4(3)(d) the value of warranty and servicing, which is a post manufacturing activity are includible in the assessable value and therefore, these expenses incurred are entitled for input service credit. We find that RSA being in the nature of post-sale customer facilitation service, is actually availed by customers after sale of the vehicle and would be squarely covered under the definition of the activity related to business and therefore is entitled for input service credit. On a similar issue in the case of *M/s. Escorts Construction Equipments Ltd. Vs. Commissioner of Central Excise, Delhi-IV [2014 (33) STR 102]*, the Tribunal, New Delhi has held as follows: -

> ***"5.*** *We have carefully considered the submissions from both the sides and perused the records. The main ground for denial of Cenvat credit in respect of after-sale repair services during warranty period is that this service has been received after the removal of the goods from the place of removal of the goods and hence, the same is not covered by the definition of 'input service'. On going through the definition of 'input service' and especially the inclusive portion of the definition, we are of the prima facie view that this ground for denial of credit is not correct, as there are a number of services mentioned in the inclusive portion of the definition of 'input service' which cannot be linked with the removal of the goods. Moreover, it has not been denied by the Department that the cost of providing free after-sale services i.e. warranty charges are part of the price of the goods on which Central Excise duty had been paid. In view of this, Cenvat credit of Service Tax paid on the after-sale services cannot be denied. We find that same view has been taken by the Tribunal in the case of C.C.E. v. Danke Products reported in 2009 (16) S.T.R. 576 (Tribunal-Delhi) and Samsung India Electronics Pvt. Ltd. reported in 2009 (16) S.T.R. 570 (Tribunal-Delhi). Moreover, free repair and maintenance services during warranty period, the charges for which are included in the price of the goods, adds to the value of the goods, and, therefore, it would be covered by the expression "activities relating to business" and hence, by the definition of "input service", and for this reason also, the same would be covered by the definition of "input service". The judgment of the Tribunal in the case of Ultratech Cement Ltd. reported in 2007 (6) S.T.R. 364 (Tribunal-Ahmd.) cited by the ld. Departmental Representative is not applicable to this case"*

In view of the above discussion, we are of the considered opinion that input service credit is allowable on Roadside Assistance Service.

10.2.1 **Cenvat credit availed of Rs.15,45,000/- availed on the services used for Study on Automobile Manufacturing investment: -**

The Assessee had availed Cenvat credit of Rs.15,45,000/- as service tax paid to conduct a study on Automobile Manufacturing Investment and whether this service falls within the definition of input service as per Rule

2(l) of CENVAT Credit Rules, 2004 is to be determined in this appeal. The Assessee has submitted that a study on the investment climate across the country was conducted through a professional agency and this has to be treated as market research and the word 'market research' has been specifically mentioned in the definition of input service under Rule 2(l) of CCR, 2004.

10.2.2 However, a perusal of the records indicate that the Assessee have engaged M/s. IPN Associates to conduct a study on incentive benefits provided by various State Governments in order to decide on the place of investment. We find that the above study has no relation with the business activity of the Assessee i.e., manufacturing and selling of cars. No nexus exists with the business activity of the Assessee. The work assigned does not have anything to do with the customer needs, demand and supply in car market, consumer feedback or any analysis of market data. The study was not research about the products of the Assessee or their marketability. As such, we are of the considered view that that the Assessee's argument that the service availed was in the nature of market research or relating to their business is not acceptable. It cannot be said to be connected either directly or indirectly with the manufacturing process or the business of the Assessee and as such, it cannot be covered under the definition of input service under Rule 2(l) of the CCR, 2004.

10.3 **Cenvat Credit on demurrage charges of Rs.20,148/-: -**

The Assessee availed Cenvat credit on service tax paid towards demurrage charges levied by the Port Trust. We find that the Assessee has inadvertently remitted the Service Tax on detention charges as the CBEC Circular No. 121/2010-ST dated 26.04.2010 which has been reproduced below, has clarified that detention charges are not chargeable to Service Tax: -

> *"Subject : Service tax on Container Detention Charges - Regarding.*
>
> *Generally marine containers are temporarily brought into a customs territory and have to be re-exported within a specified period. Normally, a Full Container Load is taken out of the port and the activity of stuffing or de-stuffing takes place at the premises of the exporter/importer. The shipping companies/steamer agent provide a pre-determined period within which the container (that has gone out of the port) is to be returned. This is called as 'pre-holding period' and the duration of the same is mentioned in the contract. In case there is any delay on the part of the customer in returning the container, the charges known as 'detention charges' are collected over and above the contracted amount by the shipping line.*
>
> *2. Representations have been received in the Board that service tax has been demanded on such 'detention charges' under the 'Business Support Service (BSS)' or 'Business Auxiliary Service (BAS)'.*
>
> *4. The issue has been examined. To retain the container beyond the pre-holding period is neither a service provided on behalf of the client (Business Auxiliary Service) nor is it an infrastructural support in the business of either the shipping lines or the customer (Business Support Service). Such charges can at best be called as 'penal rent' for retaining the containers beyond the pre-determined period. Therefore, the amount collected as 'detention charges' is not chargeable to service tax.*
>
> *5. The Board desires that pending cases, if any, on this issue may be decided in line with the above clarification."*

Though service tax is not chargeable on container detention charges, the Assessee is eligible to take input tax credit of service tax paid on demurrage charges paid to the Port Trust as it is related to procurement of inputs and also it can be said to be connected and in or in relation to the business of the Assessee. As the Assessee had paid the said demurrage charges together with the service tax to the Port Trust, the transaction being revenue neutral, the availment of credit need not be interfered with.

Demand of Interest on irregular Cenvat Credit taken: -

11. Regarding the issue of payment of applicable interest on Cenvat Credit reversed in terms of Rule 14 of CCR,2004, we find that the impugned Order-in-Original No. LTUC/432/2014-C dated 02.12.2014 dropped the demand of interest by relying on the decision of the Hon'ble High Court, Madras in the case of *CCE, Madurai Vs. M/s. Strategic Engineering (P) Ltd. [2014-TIOL-466-HC-MAD-CX],* considering the fact that the Assessee had an accumulated credit balance of around Rs.70 Crores evidencing that the ineligible credit availed was not utilised. The Hon'ble High Court of Karnataka in the case of *Commissioner of Central Excise & Service Tax, LTU, Bangalore Vs. M/s. Bill Forge Pvt. Ltd. [2012 (279) E.L.T. 209 (Kar.)]* has held that mere wrong availment of Cenvat credit does not attract interest liability unless such Cenvat credit was taken and utilised wrongly which reads as below: -

> *"21. Interest is compensatory in character, and is imposed on an assessee, who has withheld payment of any tax, as and when it is due and payable. The levy of interest is on the actual amount which is withheld and the extent of delay in paying tax on the due date. If there is no liability to pay tax, there is no liability to pay interest. Section 11AB of the Act is attracted only on delayed payment of duty i.e., where only duty of excise has not been levied or paid or has been short levied or short paid or erroneously refunded, the person liable to pay duty, shall in addition to the duty is liable to pay interest. Section do not stipulate interest is payable from the date of book entry, showing entitlement of Cenvat credit. Interest cannot be claimed from the date of wrong availment of CENVAT credit and that the interest would be payable from the date CENVAT credit is taken or utilized wrongly.*
>
> *22. In the instant case, the facts are not in dispute. The assessee had availed wrongly the Cenvat credit on capital goods. Before the credit was taken or utilized, the mistake was brought to its notice. The assessee accepted the mistake and immediately reversed the entry. Thus the assessee did not take the benefit of the wrong entry in the account books. As he had taken credit in a sum of Rs. 11,691-00, a sum of Rs. 154-00 was the interest payable from the date the duty was payable, which*

they promptly paid. The claim of the Revenue was, though the assessee has not taken or utilized this Cenvat credit, because they admitted the mistake, the assessee is liable to pay interest from the date the entry was made in the register showing the availment of credit. According to the Revenue, once tax is paid on input or input service or service rendered and a corresponding entry is made in the account books of the assessee, it amounts to taking the benefit of Cenvat credit. Therefore interest is payable from that date, though, in fact by such entry the Revenue is not put to any loss at all. When once the wrong entry was pointed out, being convinced, the assessee has promptly reversed the entry. In other words, he did not take the advantage of wrong entry. He did not take the Cenvat credit or utilized the Cenvat Credit. It is in those circumstances the Tribunal was justified in holding that when the assessee has not taken the benefit of the Cenvat credit, there is no liability to pay interest. Before it can be taken, it had been reversed. In other words, once the entry was reversed, it is as if that the Cenvat credit was not available. Therefore, the said judgment of the Apex Court has no application to the facts of this case. It is only when the assessee had taken the credit, in other words by taking such credit, if he had not paid the duty which is legally due to the Government, the Government would have sustained loss to that extent. Then the liability to pay interest from the date the amount became due arises under Section 11AB, in order to compensate the Government which was deprived of the duty on the date it became due. Without the liability to pay duty, the liability to pay interest would not arise. The liability to pay interest would arise only when the duty is not paid on the due date. If duty is not payable, the liability to pay interest would not arise."

12. Further, Hon'ble High Court of Madras in the case of *CCE, Madurai Vs. M/s. Strategic Engineering (P) Ltd. [2014-TIOL-466-HC-MAD-CX]* have ruled as follows: -

"-----------5. *The short point involved in the present Civil Miscellaneous Appeal is as to whether a mere taken of CENVAT credit facilities without actually using it, would carry interest as well as penalty?*

6. *The Appellate Tribunal has come to a definite conclusion to the effect that in the instant case the assessee has merely taken CENVAT credit facilities and before utilising the same, the Department has reversed it and therefore, the assesses is not liable to pay interest and penalty.*

7. *The learned counsel appearing for the appellant has contended elaborately that the reasoning given by the Appellate Authority for setting aside the order passed by the Authority is totally baseless and* *also against law. Under the said circumstances, the order passed by the Appellate Authority is liable to be set aside.*

8. *The entire argument put forth on the side of the appellant/Department is based upon the decision reported in 2012 (25) S.T.R. 184 (S.C.) = 2011 (265) E.L.T. 3 (S.C.) (Union of India v. Ind-Swift Laboratories Limited), wherein the Apex Court has given a finding to the effect that in Rule 14 of Cenvat Credit Rules, 2004 it has been clearly mentioned three stages, known as taken or utilization or erroneous refund. In the instant case, the first limb of Rule 14 of the said Rules is applicable and therefore, the assesses is bound to pay interest as well as penalty. The Honourable Apex Court has dealt with Rule 14 of the said Rules and subsequently on the basis of facts available in that case has given a finding to the effect that assessee therein is liable to pay interest as well as penalty.*

9. *The learned counsel appearing for the respondent has contended that the decision reported in 2012 (25) S.T.R. 184 (S.C.) (Union of India v. Ind-Swift Laboratories Limited) has been elaborately dealt with in the decision reported in 2012 (26) S.T.R. 204 = 2012 (279) E.L.T. 209 (Kar.) (Commissioner of Central Excise & S.T. Bangalore v. Bill Forge Private Limited).*

10. *In fact, this Court has perused the entire decision reported in 2012 (26) S.T.R. 204 (Karnataka) (Commissioner of Central Excise & S.T., Bangalore v. Bill Forge Private Limited) and ultimately found that mere taken of CENVAT credit facilities is not at all sufficient for claiming of interest as well as penalty.*

11. *It is an admitted fact that Rule 14 of the Cenvat Credit Rules has been subsequently amended, wherein it has been clearly stated as "taken and utilised". Therefore, it is quite clear that mere taking itself would not compel the assessee to pay interest as well as penalty. Further, as pointed out earlier, the subsequent amendment has given befitting answer to all doubts existed earlier. Since, the subsequent amendment has cleared all doubts existed earlier in respect of Rule 14 of the said Rules, it is needless to say that the argument advanced by the learned counsel appearing for the appellant/Department is erroneous, whereas the argument advanced on the side of the respondent is really having merit and the substantial questions of law settled in the present Civil Miscellaneous Appeal are not having substance and altogether the present Civil Miscellaneous Appeal deserves to be dismissed.*

12. *In fine, this Civil Miscellaneous Appeal deserves dismissal and accordingly is dismissed without costs and the order passed in Final Order No. E/920/2006, dated 3-7-2009 is confirmed."*

As such, we approve the decision of the Adjudicating Authority *vide* Order-in-Original No. LTUC/432/2014-C dated 02.12.2014 in dropping the demand of interest on irregular Cenvat credit availed but not utilised. In the present case, the Assessee has produced a Chartered Accountant's Certificate dated

11.12.2024 issued by M/s. Vaidyanathan Meenakshi & Co. who has certified after detailed examination of the Cenvat Credit Accounts and related records that the Assessee was always having enough Cenvat credit balance to cover the ineligible credits taken by mistake thus proving that Cenvat credit was merely taken but not put to use. We find that no interference is called for on this issue and the issue is decided in favour of the Assessee. Therefore, the appeal filed by the Revenue cannot be sustained and so ordered to be set aside on the issue of demand of interest.

13. As such, the impugned Order-in-Original No. LTUC/432/2014-C dated 02.12.2014 is required to be modified to the extent of demand of service tax of Rs.15,45,000/- taken on the service of Study on Investment and the Assessee is required to discharge the liability of wrong Cenvat credit availed. As the main demands i.e., Cenvat credit on Road Side Assistance and also demand of interest on reversal of ineligible Cenvat credit are not sustained, imposition of penalty is not called for as there is a genuine problem of interpretation of whether these services are eligible for credit or not and no intent to evade or suppression can be attributed to the conduct of the Assessee.

14. To summarise: -

i. Cenvat Credit on service tax paid on Road Side Assistance is eligible as input service credit.
ii. Cenvat Credit on Study on Investment is not eligible as input service credit and the Assessee is liable to reverse the input service credit taken.

iii. Demand of interest on reversal of ineligible Cenvat Credit taken is set aside.

iv. Penalty imposed is also set aside.

15. In the result, the appeal filed by the Assessee is partly allowed with consequential relief, if any, as per the law and the appeal filed by the Department is dismissed.

(Order pronounced in open court on 09.01.2025)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

MK