

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT No. III

Excise Appeal No. 40926 of 2017

(Arising out of Order-in-Appeal No. 4/2017 dated 09.01.2017 passed by Commissioner of Central Excise (Appeals-I), Central Revenue Building, Lal Bahadur Shastri Marg, Madurai – 625 002)

M/s. Sri Shanmugavel Mills (Ltd.)

Thadicombu,
Dindigul – 624 709.

...Appellant

Versus

Commissioner of GST and Central Excise

Madurai Commissionerate,
Central Revenue Building,
Lal Bahadur Sastri Marg, Bibikulam,
Madurai – 625 002.

...Respondent

APPEARANCE:

For the Appellant : Mr. M. Karthikeyan, Advocate

For the Respondent : Ms. Rajini Menon, Authorised Representative

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER No. 41118 / 2025

DATE OF HEARING : 07.08.2025

DATE OF DECISION : 07.10.2025

Per Mr. VASA SESHAGIRI RAO

M/s. Sri Shanmugavel Mills (P) Ltd, Appellant
herein, has filed the present appeal aggrieved by the Order-
in-Appeal No. 04/2017 dated 09.01.2017 passed by the
Commissioner of Central Excise (Appeals), Madurai, which
upheld the Order of the Lower Adjudicating Authority.

2.1 Brief facts as culled out from the Appeal records are that the Appellant is engaged in the manufacture of Cotton yarn, and during the period between April 2009 and September 2011, the appellants cleared 100% cotton yarn for export on payment of duty under Notification No.29/2004-CE dated 09.07.2004 and made domestic clearance without payment of duty as well as for export by availing exemption under Notification No.30/2004-CE dated 09.07.2004. The appellant also exported cotton yarn under DEPB scheme. The appellant took CENVAT credit of service tax paid on the input services and utilized it towards payment of duty on their final products cleared for export under claim for rebate of duty paid. The appellant had not availed CENVAT credit of duty paid on inputs.

2.2 Consequent to the verification of accounts by the department, the Joint Commissioner of Central Excise, Madurai, had issued a Show Cause Notice No.39/2014-CE dated 04.07.2014 to the appellant wherein it was alleged that the amount of CENVAT credit for reversal under Rule 6(3A) of CCR,2004 did not include the value of the final products exported without payment of duty under Notification No.30/2004-CE dt.09.07.2014, value of goods exported under DEPB scheme, and the value of goods cleared for job work and the value of waste yarn under the

category of "exempted goods". Hence, the Show cause notice alleged that there was a short payment (Reversal) of an amount of CENVAT credit of Rs.38,45,720/- attributable to common input services used in the manufacture of exempted goods and proposed to recover the above amount with interest under Rule 14 of CCR and Rule 6(3A) (e) of CCR, 2004. The notice also proposed to Impose a penalty on the appellant under Rules 15(2) of CCR read with Section 11AC of the Central Excise Act, 1944.

2.3 After due process of law, the Joint Commissioner of Central Excise, Madurai, *vide* the Order-in-Original, *vide* No. 03/2016 dated 19.02.2016, disallowed CENVAT credit of Rs.38,45,720/-under Rule 14 of CENVAT Credit Rules, 2004 read with Section 11A (4) of Central Excise Act, 1944 and confirmed appropriate interest under Rule 6(3A) (e) of the rule *ibid*. Further, a penalty of Rs.38,45,720/- is also imposed on the appellant under rule 15(2) of CCR,2004 read with section 11AC of the Central Excise Act *ibid*.

2.4 Being, aggrieved by the above Order the appellant had filed an appeal before the Commissioner (Appeals), Madurai and after due process of Law, the Appellate Authority upheld the Order of the Lower

Adjudicating Authority *vide* impugned Order-in-Appeal No. 04/2017 dated 09.01.2017.

2.5 Once again aggrieved by the Order of the Lower Appellate Authority, the appellant has carried the issue in Appeal before the Tribunal.

3.1 The Ld. Advocate Shri M. Karthikeyan appeared on behalf of the Appellant and submitted as follows: -

3.2 The appellant reversed the amount of CENVAT credit attributable to the input services used in the manufacture of exempted final products in terms of Rule 6(3A) of CENVAT Credit Rules, 2004.

3.3 The view of the Department is that the appellant has to include the value of clearances for export claiming exemption under Notification No. 30/2004, clearances of goods manufactured on job work basis and clearances of yarn waste without payment of duty.

3.4 The appellant has not availed any credit on inputs on export clearances claiming exemption under Notification No. 30/2004. The credit was availed only on input services. As per Notification No. 30/2004, the bar is

only on availment of credit on 'inputs' and not on 'input services.

3.5 As per the amendment in Notification No. 42/2001-C.E. (N.T.), a bond is not required for export of exempted goods and that execution of a bond is only a procedural requirement

3.6 The very purpose of execution of letter of undertaking (previously known as Bond) was to ensure that the goods cleared without payment of duty from the factory gate are exported and but for non-execution of letter of undertaking, the appellant had duly followed all the procedures relating to export.

3.7 Regarding the second issue of cotton yarn waste, the appellant submitted that the lower appellate authority has not given any finding for inclusion of the value of waste yarn cleared during the impugned period under the category of "exempted goods" and had included the same under the category of "exempted goods" for quantifying the credit to be reversed in terms of Rule 6(3A) of CCR, 2004.

3.8 The LAA had also included the value of goods cleared to job workers for quantifying the credit to be

reversed in terms of Rule 6(3A) of CCR. The appellant had already included the value of the goods so cleared under the category of "exempted goods" for working out the quantum of credit to be reversed. Therefore, to include the value of goods cleared for job work would tantamount to double jeopardy and is not sustainable in law

3.9 The Appellants have placed reliance on various decisions to substantiate the fact that there is no short reversal of CENVAT credit by them.

3.10 Finally, the Ld. Advocate has also argued on the grounds of limitation that the entire allegation against them is only interpretational and therefore, invoking the extended period of limitation cannot sustain.

4.1 The Ld. Authorized Representative Ms. Rajini Menon appeared on behalf of the respondent and supported the findings in the impugned order. She submitted that though the appellant has been reversing proportionate credit, the amount arrived at for such reversal is incorrect. The appellant has not included the clearances for export claiming exemption under Notification No. 30/2004CE, clearances made under the same Notification which have been manufactured on job work basis and also the

clearances of yarn waste without payment of duty. The value of the said clearances ought to have been included for applying the formula as stated in Rule 6 (3A).

4.2 She adverted to Notification No. 42/2001 to submit that the requirement of furnishing a bond while exporting exempted goods has been done away with by such Notification. Thus, the exempted goods have been exported by the appellant without executing a bond. Therefore, Rule 6 (6) (v) of the CENVAT Credit Rules will not assist the appellant. The Department has thus correctly raised the demand.

4.3 Further, common inputs and input services have been used for the manufacture of waste and therefore, the appellant has to include the value of the clearances of yarn waste also.

4.4 With regard to the issue of limitation, Ld. AR submitted that the short payment or short reversal would not have come to light but for the interference of the Department. Therefore, the appellant is guilty of suppression of facts with an intent to evade payment of duty.

4.5 She thus argued that there are no grounds for interference in the impugned order.

5. Heard both the sides and considered the evidence as available in appeal records and the case laws relied upon.

6. The following issues arise for our consideration in this case: -

- i. Whether the value of clearances for export made by the appellant under Duty drawback scheme and DEPB Scheme for which the exemption under Notification No. 30/2004 has been availed has to be included for reversal of credit?
- ii. Whether the Department is correct in including the Clearances without payment of duty under Notification No. 30/2004 for manufacture of fabrics on job work basis?
- iii. Whether value Clearance of yarn waste without payment of duty can be included for reversal of Credit and,
- iv. Whether extended period of limitation is invokable in this case?

We now take up the issues in seriatim: -

7.1 As regards the first question, the appellant submitted that the very purpose of execution of letter of

undertaking (previously known as Bond) was to ensure that the goods cleared without payment of duty from the factory gate which are exported and on submission of proof of export with the competent central excise authority, the duty liability fastened on such export goods would get extinguished. The appellant had not executed such letter of undertaking for export of their product on the bona-fide belief that their product was exempted from payment of duty under Notification No.30/2004-CE and therefore execution of letter of undertaking was not necessary. But for non-execution of letter of undertaking, the appellant had duly followed all the procedures relating to export. Export goods were stuffed under the physical supervision of central excise officers. The very fact of export has not been disputed in the impugned order. Therefore, for non-execution of LUT, the substantial right granted vide Rule 6(6) (v) of CCR, 2004, in availing CENVAT credit in respect of input services used in the manufacture of exported goods could not be denied to the appellant.

7.2 The Department on the contrary disagreed with the contention of the Appellant that it is only a procedural mistake on the part of the Appellant that cotton yarn was not exported under bond and held that it is a statutory condition

prescribed under Rule 6(6)(v) of CENVAT Credit Rules and hence, the contention of the Appellant lacks merit.

7.3 In this connection, the appellant placed reliance on the decision of Tribunal rendered in the case of *Sabare International-Versus-Commissioner of Central Excise, Trichy* reported in 2014 (308) E.L.T. 609. In this case, Tribunal held that "execution of bond is only a procedural lapse and its violation should not disentitle the appellant from taking of credit and claiming refund thereof. This was the view taken in the case of *Salzer Controls Limited v. CCE, Chennai - 2003* (160) E.L.T. 1169. Further the Tribunal also cited the decision in the case of *Thermax Pvt. Limited - 1992* (61) E.L.T. 352 to come to the conclusion that benefit of exemption or concession should not be denied whenever intended use of material is established by other evidences and just because of procedural violation, that by itself will not disentitle them from taking the benefit. In this case it is not the case of the department that goods have not been exported or appellant did not have the relevant documents for availing credit or inputs have not been used for the manufacture of exported goods."

7.4 The appellant further wished to submit that the ratio decidendi of the above decision is squarely applicable to

their case. Further the appellant placed reliance on the following case laws.

- i. *Well Known Polyesters Ltd vs CCE- 2011 (267) E.L.T. 221.*
- ii. *Salzer Controls Limited v. CCE, Chennai - 2003 (160) E.L.T. 1169*

7.5 The Appellant also submitted that the Non-inclusion of Export turnover for Reversal of CENVAT Credit for the exports made by the appellant under Duty drawback scheme and DEPB Scheme for which the exemption under Notification No. 30/2004 has been availed is no longer Res Integra as decided by this Hon'ble Tribunal in respect of the following cases wherein this issue was decided in favour of the Appellant.

- i. *Sivaraj Spinning Mills Pvt. Ltd. Versus Commissioner of GST & Central Excise, Madurai 2024 (8) TMI 990 - CESTAT CHENNAI*
- ii. *Adisankara Spinning Mills Pvt Ltd. Versus Commissioner of Central Excise, Madurai 2025 (1) TMI 1092 - CESTAT CHENNAI*
- iii. *M/s. Sri Velayutham Spinning Mills (P) Ltd. Versus Commissioner of GST & Central Excise, Madurai 2024 (8) TMI 1207 - CESTAT CHENNAI*

7.6 We have perused all the above decisions and find that the facts are identical to the situation at hand. Interestingly we also find that all the above decisions are on common issues and have emanated from various impugned

orders passed by the Commissioner (Appeals) Madurai in all those cases.

7.7 In the case of *Sri Velayutham Spinning Mills (P) Ltd. Versus Commissioner of GST & Central Excise, Madurai 2024 (8) TMI 1207 - CESTAT CHENNAI* in Para 5 of the Decision it has been held as follows: -

"5. On perusal of the impugned order, I find that the issue stands covered by the decision in the case of M/s. Drish Shoes Ltd. (supra), wherein the Hon'ble High Court has analyzed the issue as to whether credit is eligible on the duty paid on inputs and input services used in the manufacture of exempted goods which are exported. The said question of law framed by the Hon'ble High Court is quoted as under:

"(1) Whether an assessee exclusively manufacturing wholly exempted goods (chargeable to NIL tariff rate of duty) is eligible to avail CENVAT credit of duty paid on the said inputs and input services under Rule 6(1) of the CENVAT Credit Rules, 2002/CENVAT Credit Rules, 2004, used in the manufacture of such exempted goods, even if such goods are exported."

After a detailed discussion, the Hon'ble High Court in paragraph 20 has answered the question as under:

"20. In view of the above discussion, we hold that an assessee, manufacturing goods chargeable to nil duty, is eligible to avail CENVAT credit paid on the inputs under the exception clause to Rule 6(1), as contained in Rule 6(5) of CENVAT Credit Rules, 2002 and Rule 6(6) of CENVAT Credit Rules, 2004, used in the manufacture of such goods, if the goods are exported. Question No. 1 is answered accordingly."

Thus, it was held that even if the exempted goods are exported, credit is eligible. A similar matter was also examined by a Single Member Bench of this Tribunal in the appellant's sister concern in M/s. Sri Velayuthaswamy

Spinning Mills (P) Ltd., (Unit. II) Vs. The Commissioner of GST & CE, Madurai vide Final order No. 40827/2019 dated 06.06.2019 and by the Division Bench in Sivaraj Spinning Mills P. Ltd. Vs. CGST & CE, Madurai vide Final Order No. 41095/2024 dated 19.8.2024. Both the Benches after discussing the issue in detail have held that the demand alleging that the appellant has to pay/ reverse the duty amount, after including the value of export clearances was not proper and have set aside the orders."

7.8 Judicial discipline requires that we follow the judgment of the Hon'ble High Court and the decisions of this Tribunal for an earlier period, especially when the issues therein have not been distinguished on facts and law by Revenue.

Therefore, the first question is answered in favour of the Appellant.

8.1 Regarding the second question of whether the value of waste yarn cleared for home consumption to be considered for reversal of CENVAT Credit under the value of Exempted goods, the Appellant has relied upon the case of *Shri M/s. Sri Velayuthaswamy Spinning Mills (P) Ltd., (Unit-II) Versus The Commissioner of G.S.T. & Central Excise 2019 (6) TMI 362 - CESTAT CHENNAI* wherein in Paras 7.1, 7.2 and 7.3 it has been held that: -

"7.1 The second demand is with regard to the requirement of including the turnover of yarn waste cleared by the appellant.

The Department is of the view that the credit on inputs contained in the waste is not eligible and has to be reversed by the appellant. As pointed out by the Ld. Counsel for the appellant, Rule 57D of the erstwhile MODVAT scheme had specifically mentioned that the credit on inputs contained in waste is eligible. Paragraph 3.7 of the Supplementary Instructions issued by the Department after introduction of the CENVAT Credit Rules, 2002, reads as under:

"3.7 CENVAT credit is also admissible in respect of the amount of inputs contained in any of the waste, refuse or bye product. Similarly, CENVAT is not to be denied if the inputs are used in any intermediate of the final product even if such intermediate is exempt from payment of duty. The basic idea is that CENVAT credit is admissible so long as the inputs are used in or in relation to the manufacture of final products, and whether directly or indirectly."

It is very much clear from the above Instructions issued by the Department that credit is admissible on the amount of inputs contained in any waste, refuse or by-product.

7.2 The argument of the Ld. AR for the Department that the appellants are manufacturing waste cannot be accepted. The appellants are not consciously manufacturing waste and it is merely a refuse or waste which is not dutiable, as held by the Hon'ble Supreme Court in various decisions. The Tribunal in the case of M/s. Eveready Industries India Ltd. (supra) has held that the credit on inputs contained in waste is not required to be reversed.

7.3 Following the said decision, I am of the view that the appellant succeeds on the second issue also."

8.2 Following the ratio decidendi in the above case, we are of the view that the value of waste Yarn cannot be included in the value of Exempted turnover and thus, the second question framed by us is answered in favour of Appellant.

9.1 The next question before us is whether the value of Cotton yarn cleared for Job work for manufacture of grey fabric or doubling of yarn has to be considered for reversal of Credit.

9.2 In para 20 of the impugned order, the Lower Appellate Authority has held that: -

"20. With regard to the contention of the assessee that the value of goods cleared for job work has already been included in the value of goods cleared under Notification No.30/2004CE. However, I find that the assessee has not produced any documentary evidence to prove their claim. Hence, I reject the claim made by the assessee."

9.3 On the contrary, the Appellant has submitted that during the period from 2009 to September 2011, the appellant had sent cotton yarn to job worker's premises, in terms of the Notification No.214/86-CE, for conversion into either grey fabric or doubled yarn and received back the job worked goods. After carrying out necessary processes, the final products namely Grey Fabric/ doubled yarn was cleared for domestic consumption without payment of duty availing exemption under Notification No.30/2004-CE. The appellant had already included the value of the goods so cleared under the category of "exempted goods" for working out the quantum of credit to be reversed. Therefore, to include the

value of goods cleared for job work would tantamount to double jeopardy and is not sustainable in law.

9.4 We also find that the Appellant has submitted copies of the ER-1 for the period January 2010 to September 2011 during the hearing held on 07.08.2025 which contain the details of the Cotton yarn sent for Job work. As the returns are being filed regularly every month with the Range and the details are also available in the ACES, and the verification should have been done in the initial stage itself by the Lower Adjudicating Authority or by getting a verification report from the Range officer instead of this unwanted exercise at this stage. We are convinced from the submission of the appellant that they have already included the value of the goods so cleared under the category of "exempted goods" for working out the quantum of credit to be reversed. Therefore, to include the value of goods cleared for job work would tantamount to double jeopardy and is not sustainable in law. The ER-1 returns submitted by them also shows the Job work turnover.

9.6 Therefore, in view of the above findings, we find that Job work turnover cannot be included in the value of Exempted goods and this question framed by us is answered in favour of the Appellant.

10. From the discussions made above, and also following the decisions cited supra, we are of the view that the contention of the Department that the CENVAT credit is short reversed is not evidenced. The first three questions are therefore found to be in favour of the appellant and therefore the Appeal of the Appellant succeeds on the grounds of Merit.

11.1 Finally, we proceed to decide on the issue of limitation and the issue is fiercely contested by both the sides.

11.2 We observe that the impugned order has upheld the invocation of extended period of limitation. The impugned order has held in Para 10 that: -

"10. But for the due diligence of the Departmental Officers, the issue would not have come to light of the day. The Appellants also had not reversed the credit in time and suppressed the fact with intent to evade payment of inadmissible credit. As held by the Hon'ble Supreme Court in the case of Union of India Vs M/s Dharmendra Textile Processors [2008(231) ELT 3 (SC)] that in the case of suppression, there is no power with Authority below at its discretion to levy penalty less than that the amount equal to duty or waive the interest penalty. Hence the penal action initiated by the Adjudicating authority needs no interference."

11.3 To this invocation of extended period of time, the appellant submitted that the details of CENVAT credit taken and amount of credit reversed in terms of Rule 6(3A) of CCR, 2004 (with worksheets) were furnished along with the ERI return filed every month with Superintendent of Central Excise, Dindigul-II Range. The Departmental officers have statutory obligation to scrutinize the particulars furnished in the ERI returns filed by the Appellant/manufacturer.

11.4 We have perused the records/arguments of both the sides and the case Laws relied upon. We find that "CBEC introduced self-assessment in respect of central excise in 1996 and in respect of service tax in 2001. With the introduction of self-assessment, the department also provided for a strong compliance verification mechanism with three important prongs—Scrutiny of Returns/ Assessments, Audit and Anti-Evasion. The crucial role of scrutiny of assessments was highlighted in the Report of the Task force on Indirect Taxes, 2002, which stated that "It is the view that assessment should be the primary function of the Central Excise Officers. Self-assessment on the part of the taxpayer is only a facility and cannot and must not be treated as a dilution of the statutory responsibility of the Central Excise Officers in ensuring correctness of duty payment. No doubt audit and anti-evasion have their roles to

play, but assessment or confirmation of assessment should remain the primary responsibility of the Central Excise Officers".

11.5 We now proceed to take a look the provisions invoked in the impugned Order for imposition of Penalty.

Rule 15(2) of CENVAT Credit Rules, 2004

In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilised wrongly by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of the Excise Act, or of the rules made thereunder with intent to evade payment of duty, then, the manufacturer shall also be liable to pay penalty in terms of the provisions of [clause (c), clause (d) or clause (e) of sub-section (1) of section 11AC of the Excise Act.

11AC. *Penalty for short-levy or non-levy of duty in certain cases. -- (1) The amount of penalty for non-levy or short-levy or non-payment or short-payment or erroneous refund shall be as follows--*

(c) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud or collusion or any wilful misstatement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of Section 11A shall also be liable to pay a penalty equal to the duty so determined:

11.6 On a plain reading of Section 11AC (c), it can be seen that where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud or collusion or any wilful misstatement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of Section 11A shall also be liable to pay a penalty equal to the duty so determined.

Therefore, for invocation of this provision, there should be an element of fraud or collusion or any wilful misstatement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty.

11.7 We find that time and again, it has been held by various courts including the Supreme Court that invocation of larger period is a draconian provision and has to be invoked with caution. This is a case of reversal of Common credit involving interpretation of Rule 6(3A) of CCR 2004 which is contested on both the sides. So, it is not justified to allege any suppression/misstatement on the part of the assessee warranting invocation of larger period.

11.8 We also find that the demand is barred by limitation since the SCN does not adduce any evidence of any positive act of wilful suppression or misstatement of facts with intent to evade Central Excise Duty. On the contrary, we observe that the appellants have been regularly filing their ER-1 returns and have declared all the exempted turnover including Exports, Job work, Waste and domestic and it is an interpretative issue on what should be the components of Exempted turnover for Reversal of Credit in this case.

11.9 It is also appropriate at this juncture to refer to the decision of the Apex Court in *Uniworth Textiles Ltd v CCE, Raipur, 2013 (288) ELT 161 (SC)*, wherein the Apex Court has held that it is a cardinal postulate of law that the burden of proving any form of mala fide lies on the shoulders of the one alleging it. In the case of *Uniworth Textiles Ltd. v. CCE, Raipur [2013 (288) E.L.T. 161 (S.C.)]*, it was held that mere non-payment of duties is not equivalent to collusion or wilful misstatement or suppression of facts, otherwise there would be no situation of which ordinary limitation period would apply. Inadvertent non-payment is to be met within the normal limitation period and the burden is on Revenue to prove allegation of wilful misstatement. The onus is not on the assessee to prove their bonafides. In the case of *CCE v.*

Chemphar Drugs Liniments [2002-TIOL-266- SC-CX = 1989 (40) E.L.T. 276 (S.C.)], (Relied upon by the Appellant) the Supreme Court held that something positive other than mere inaction or failure on the part of the assessee or conscious or deliberate withholding of information when assessee knew otherwise, is required before it is saddled with the liability of the extended period.

11.10 We find that the Appellant has filed the ER 1 returns in time along with worksheets for reversal of Credit, and the goods are Stuffed and exported under Department's Supervision and in such a situation, we are unable to fathom why the Appellant has been saddled with a grievous allegation of misstatement/suppression etc. and we hold that invocation of extended period is totally not justified in this case. The decisions referred to above have clearly held that in such circumstances there can be no suppression of facts with an intent to evade payment Excise Duty (Short reversal of Credit in this case).

11.11 We are in complete agreement with the Appellant's contentions that there has neither been any suppression of facts nor any wilful mis-statement warranting invocation of such larger period and that sufficient grounds do not exist in this case to sustain the allegation of willful

misstatement or the suppression of facts, and therefore, the extended period cannot be invoked. The Show Cause Notice in this case was issued on 04.07.2014 and the period of demand involved is 2008-09, 2009-2010, 2010-2011 (Upto Sept 2010) and therefore, the one-year period (normal period) expired by the end of June 2013 itself well before the date of issue of SCN by the department.

11.12 In such circumstances, the Department should not have invoked the extended period of limitation and the Appellants plea, that extended period of limitation ought not to have been invoked and equivalent penalty ought not to have been imposed, merits acceptance. Hence, we are of the view that there cannot be any ground for the Department to invoke larger period under Section 11AC of Central Excise Act 1944 read with Rule 15(2) of CCR 2004. Therefore, we hold that the demand fails to survive on the grounds of limitation also.

12. In the end, when the order itself fails to sustain both on merits and limitation, the demand of Central Excise Duty (Credit short reversed) and interest thereon and all the consequent penalty imposed stands vacated.

13. Thus, the impugned Order-in-Appeal No. 4/2017 dated 09.01.2017 passed by Commissioner of Central Excise (Appeals-I), Madurai is set aside. The appeal is allowed with consequential relief, if any, as per the law.

(Order pronounced in open court on 07.10.2025)

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

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)

MK