

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

REGIONAL BENCH – COURT No. III

**Excise Appeal Nos. 42350 and 42351 of 2016**

(Arising out of Orders-in-Original Nos. 49 & 50/2016-CE dated 19.07.2016 passed by Commissioner of Central Excise, No. 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034)

And

**Excise Appeal No. 41469 of 2019**

(Arising out of Order-in-Appeal No. 122/2019(CTA-II) dated 16.05.2019 passed by Commissioner of GST and Central Excise (Appeals), Newry Towers, No. 2054, II Avenue, 12<sup>th</sup> Main Road, Anna Nagar, Chennai – 600 040)

**M/s. Proventus Life Sciences Pvt. Ltd.**

C-9, Industrial Complex,  
Maraimalai Nagar – 603 209.

**...Appellant**

***Versus***

**Commissioner of GST and Central Excise**

Chennai Outer Commissionerate,  
No. 2054, Newry Towers,  
II Avenue, 12<sup>th</sup> Main Road,  
Anna Nagar,  
Chennai – 600 040.

**...Respondent**

**APPEARANCE:**

For the Appellant : Ms. Radhika Chandrasekar, Advocate

For the Respondent : Mr. M. Selvakumar, Authorised Representative

**CORAM:**

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

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

**FINAL ORDER Nos. 41206-41208 / 2025**

DATE OF HEARING : 24.06.2025

DATE OF DECISION : 30.10.2025

**Per Mr. VASA SESHAGIRI RAO**

These Excise Appeals Nos. E/42350 &  
42051/2016 and E/41469/2019 have been filed by M/s.  
Proventus Life Sciences [hereinafter referred to as

'Appellant'] directed against the Orders-in-Original Nos. 49 & 50/2016 dated 19.07.2016 passed by Commissioner of Central Excise, Chennai III Commissionerate and Order-in-Appeal No. 122/2019 (CTA-II) dated 16.05.2019 passed by the Commissioner of GST and Central Excise (Appeals). As the facts are identical, the Appeals are clubbed together for a common decision. The details of the Appeals filed and the connected SCN/SOD/impugned orders issued are as follows: -

| Sl. No. | SCN/SOD No /Date                | Excise Duty (Rs.)                    | OIO/OIA No &date                   | Period & Appeal No                               |
|---------|---------------------------------|--------------------------------------|------------------------------------|--------------------------------------------------|
| 1       | SCN 53/2015 -CE dt 01.12.2015   | 59,64,197/-<br>+Interest+<br>Penalty | 49 &50 /2016 (CE) dated 19.07.2016 | November 2014 to March 2015<br><b>E/42350/16</b> |
| 2       | SOD 35/2016 CE dated 04.05.2016 | 56,50,567/-<br>+Interest+<br>Penalty |                                    | April 2015 to March 2016<br>E/42351/16           |
| 3       | SOD 41//2017 CE dated 11.       | 47,30,458/-<br>+Interest+<br>Penalty | 122/2019 (CTA-II) dated 16.05.2019 | April 2016 to June 2017<br>E/41469/2019          |

2.1 The brief facts of the case as borne out of the Appeal records are that the appellant receives raw materials, performed quality checks, and clears them to job worker for carrying out the operations of blending, grinding, and addition of additives. The said removal of the raw materials

from the appellant to the said job worker, and their eventual return from the said job-worker to appellant were made in terms of Rule 4(5)(a) of the CENVAT Credit Rules, 2004 [CCR for short] - by delivery challans on the onward removal, and on the return by the delivery challan, as well as central excise invoice raised by the job worker. The job worker opted to pay the central excise duty on the job worked goods by including the value of the raw materials provided by appellant.

2.2           The case of the department is that appellant, availed CENVAT credit at the time of original receipt of raw materials, and again availed CENVAT credit on the basis of the job worker's invoice which included the value of the raw materials as well. This, according to the department, amounted to taking CENVAT credit twice for the same inputs.

2.3           On the above view, the department proposed to demand CENVAT of Rs.59,64,197/ for the period November 2014 to March 2015, and a further demand of Rs.56,50,567/- for 2015-16, respectively by issuing show cause notice dated 01.12.2015 and by a statement of demand dated 04.05.2016 and another SOD dated 11.01.2017 covering the period April 2016 to June 2017 for an amount of Rs.47,30,458/-.

2.4 After due process of Law, the SCN and SOD's came to be confirmed along with appropriate interest and Penalty as detailed in the above Table.

2.5 Aggrieved, the Appellant approached the Commissioner (Appeals II) Chennai, who after due process of Law, rejected the Appeal in respect of SOD covered in Sl.No. 3 of the above Table.

2.6 Further being aggrieved, the Appellant approached this Forum in respect of Appeals against the Order-in-Original and Order-in-Appeal as detailed in Sl. Nos. 1, 2 and 3 of the above Table.

3. The Ld. Advocate Ms. Radhika Chandrasekar Appeared on behalf of the Appellant and the Ld. Authorized Departmental Representative Mr. M. Selvakumar for the respondent, presented their case and made their submissions.

4. The Ld. Advocate Ms. Radhika Chandrasekar on behalf of Appellant submitted that: -

4.1 The Appellant sent inputs to a job worker under a delivery challan for carrying out operations such as blending, grinding and addition of additives.

4.2 The Appellant has availed CENVAT credit of excise duty paid on such raw material being inputs and the removal to the job worker was made in compliance with Rule 4(5)(a) of the CENVAT Credit Rules, 2004 without reversal of CENVAT credit.

4.3 The job worker returned the processed goods under the cover of an invoice and opted to pay duty of excise on the job worked goods by including the value of raw material provided by the Appellant and the material added by the job worker within 180 days of their being sent to job worker.

4.4 The allegations in the Show Cause Notice/ Statement of Demand were on not issuing excise invoice for removal of inputs to job worker and non-reversal of CENVAT credit for as such removal of inputs to the job worker.

4.5 There is no finding in the Order-in-Original or Order-in-Appeal as to why the Appellant is not entitled to send goods to a job worker under Rule 4(5)(a) of CCR.

4.6 The Show Cause Notice has specifically alleged non reversal of credit as required under Rule 3(5) of CENVAT Credit Rules, 2004 and that Rule 3(5) of CENVAT Credit Rules is not applicable in a scenario where credit availed goods are removed only to a job worker.

4.7 There is no question of dual credit considering the fact that the job worker charged duty on the value including the value of materials supplied by the Appellant as well as materials procured by the job worker.

4.8 The issue is settled in favour of the Appellant and relied upon various decisions in their favour and in view their submissions, the demand for reversal of CENVAT is not sustainable and therefore question of interest and penalty does not arise.

5. The Ld. Authorized Departmental Representative Mr. M. Selvakumar reiterated the findings in the Order-in-Original and Order-in-Appeal that availment of double credit on the same input has been proved in the findings and the Appellant ought to have paid Excise Duty equal to CENVAT Credit availed while sending the goods for job work and that Rule 4(5)(a) of CCR is not applicable in their case and that

the applicable Rule for removal is Rule 3(5) of CCR. Further, there is no merit in the Appeal, and it deserves to be rejected Prima Facie.

6. We have heard the rival submissions of both the sides, carefully perused the appeal records and the citations submitted as relied upon.

7. We find that the issues for determination are as to: -

- i. Whether the appellant should have reversed the CENVAT credit availed when the inputs were removed as such from the factory for Job work; and whether the Job worker is right in payment of excise duty on the resultant intermediate / job-worked goods, when those goods were alleged to be exempted in the hands of the job worker and returned back to the Appellant on which the Appellant has availed CENVAT Credit?
- ii. Whether such availment constitutes double-availment? and,
- iii. Whether interest and penalties can be imposed?

8.1 As the first and second question framed by us are interlinked, both are clubbed together for a common

decision. We find that when inputs are purchased/received into the factory, the manufacturer may take credit of duty paid on those inputs. The question is whether the Appellant should have reversed the credit when such inputs are sent to a job-worker as per Rule 3(5) of CCR as held by the Respondent in their impugned orders. Further, we find that the job-worker on processing, pays duty on the intermediate products and goods returned back under Job Work Challan and Duty paid Invoice. We find that such duty paid by the job-worker is a distinct duty event in respect of the intermediate product as compared to the removal of inputs for Job work.

8.2 Rule 4(5)(a) expressly allows sending of inputs to job-workers without reversal and contemplates re-availment of credit when inputs/intermediate goods are received back after duty payment by the job-worker. The principal's availment on receipt is therefore within the statutory scheme.

8.3 On a plain reading of Rule 3(5) and Rule 4(5) (a) of CCR 2004, we find the following: -

***"Rule 3(5) applies where inputs or capital goods are removed "as such" from the factory (e.g. sale/transfer/clearance as such) and requires payment of an amount equal to the credit availed. Sending inputs/capital goods to a job-worker is dealt with***

*separately by Rule 4(5)(a) — that rule expressly permits sending inputs/capital goods for job-work without reversal, subject to the time-limits/conditions; only if the goods are not received back within the prescribed period the manufacturer/provider must pay an amount equivalent to the credit attributable (and may re-avail credit when the goods are received back). CBEC has also clarified practical aspects (re-credit, time-limits) in Circular No. 990/14/2014-CX-8.*

**Rule 3(5)** (CENVAT Credit Rules, 2004) — *payment on removal as such:*

*"(5) When inputs or capital goods, on which CENVAT credit has been taken, are removed as such from the factory, or premises of the provider of output service, the manufacturer of the final products or provider of output service, as the case may be, shall pay an amount equal to the credit availed in respect of such inputs or capital goods and such removal shall be made under the cover of an invoice referred to in rule 9 :*

*Provided that such payment shall not be required to be made where any inputs [or capital goods] are removed outside the premises of the provider of output service for providing the output service: ..."* (Rule 3(5) — CCR 2004).

**Rule 4(5)(a)** (CENVAT Credit Rules, 2004) — *sending to job-worker without reversal:*

*"(5)(a)(i) The CENVAT credit on inputs shall be allowed even if any inputs as such or after being partially processed are sent to a job worker ... and it is established from the records, challans or memos or any other document produced by the manufacturer ... that the inputs are received back in the factory within one hundred and eighty days of their being sent: ...*

*(iii) if the inputs or capital goods ... are not received back within the time specified ... the manufacturer ... shall pay an amount equivalent to the CENVAT credit attributable to*

*the inputs or capital goods ... but the manufacturer ... may take the CENVAT credit again when the inputs or capital goods are received back in the factory ...” (Rule 4(5)(a)).*

8.4 We also find from the records that the movement of inputs is for bona fide job-work (not a commercial sale/transfer) as evidenced from the job-work challans and the goods were intended to be returned. It is not disputed anywhere that the movement was in substance a removal as such to the job worker where the goods were sold and not expected back and where documents show sale/transfer, in such cases Rule 3(5) and payment obligation can be invoked.

8.5 We find from CBEC Circular No. 990/14/2014-CX-8 (19.11.2014) which clarifies operation of Rule 4(5)(a) (180-day rule; payment and re-credit mechanics) and how these procedural features work in the job-work context. The Circular explicitly discusses Rule 4(5)(a) in the job-work framework. In Para 2 (iii) it is stated that

*“Rule 4(5)(a) of CCR, 2004 prescribes that in case inputs sent to job worker are not received back within 180 days, the manufacturer or service provider is required to pay an amount equal to credit taken on such inputs in the first instance. However, when the inputs are subsequently received back from job worker, the amount so paid can be re-credited in the account*

*On a plain reading of this clarification, it is amply clear that Rule 4(5)(a) of CCR, 2004 governs goods sent for Job Work and not Rule 3(5) of CCR 2004 as claimed by the Respondent."*

Therefore, it is clear that the applicable Rule for Job work is Rule 4(5)(a) and not Rule 3 (5) as held by the Respondent. We hereby overrule the application of Rule 3(5) by the Department in the impugned Orders and hold that the correct Rule governing Job work is 4(5)(a) of CCR 2004.

8.6 We find that the impugned Order-in-Original dated 19.07.2016 in Para 20 and 23 has held that: -

*"Para 20. ....the raw materials (RCH compound and reclaimed rubber) are received by Proventus and after going through quality checks, they are cleared to job workers, M/s Suolificio Linea Italia (India) P Ltd., under the cover of delivery challan, under Rule 4(5)(a) of CENVAT Credit Rules, 2004, for carrying out operations such as blending, grinding and addition of additives. Then the job worked, goods namely compounded rubber (TSH 40059920) is received from the job worker, under Central Excise invoice and delivery challan [under Rule 4(5)(a), challan undergo further process, for blending with carbon. The finished goods compounded rubber with carbon is cleared to market for sale under the cover of challan, Central Excise invoice, on payment of duty.*

*Para 23. Further, the challan dated 17.1.2015 (for sample) issued by Proventus for sending inputs to the job worker, under Rule 4(5)(a) of ÇENVAT Credit Rules, indicates the description manufacture of goods sent as DRC and the nature of processing is indicated as. for of*

*compounded rubber(other). Hence from the details available in challan it could be concluded that whatever be the nature of goods sent under the challan, the same goods are not received back after job work and different goods have emerged after undergoing process at the job worker's premises: Further, I find from the records that Proventus by taking CENVAT credit, on the goods received from the job worker had accepted that the goods received after job work is, not intermediate goods but their inputs. The CENVAT Credit Rules, 2004 also distinguish inputs and intermediate goods. The goods which are declared as inputs, by a manufacturer could not become intermediate goods for the same manufacturer, as CENVAT scheme distinguishes each type of goods namely inputs, intermediate goods, as well as final products, etc. Hence, I find that Proventus had sent DRC on which they had taken CENVAT credit, to their job worker under Rule 4(5) (a) but had not received the intermediate goods/goods produced there from, but have received some other goods which is claimed by them as inputs. Hence in view of these discussions I find that Proventus had not received the goods produced there from the inputs as mandated under the said rule and hence I hold-that they are required to reverse the CENVAT credit taken on the inputs which were removed to the job worker."*

8.7           The Appellant on the other hand controverted with the following submissions:

8.7.1           Paragraph 20 of the impugned order finds from the records that raw materials (RCH compound and reclaimed rubber) received by appellant are cleared to job worker for carrying out operations such as blending, grinding, and addition of additives. The job worked goods

namely compounded rubber (TSH 40059920) is received from the job worker to further undergo additional process, for blending with carbon. The finished goods 'compounded rubber' with carbon is cleared to market for sale on payment of duty.

8.7.2 It is crystal clear from the above that from out of the raw materials, the job worker had made goods - intermediate goods -for further processing by appellant into finished product. It is therefore not clear as to how these facts were ignored while making the findings in para 23 of the impugned order.

8.7.3 By definition under Rule 2(k)(i) of CCR, all goods used in the factory by the manufacturer of the final product are 'inputs'. By this definition, goods received back from job worker for manufacturer for final product are doubtless "inputs". From the very finding of facts in paragraph 20, these inputs received back from job worker were different from the input raw materials sent to job worker. Therefore, the assertion in the impugned order that the goods received from job worker were inputs', does not promote the department's case at all. On the contrary, it validates the CENVAT credit availed by the appellant, which was perfectly

in accordance with the rules of eligibility and procedure. The impugned order is totally erroneous and contrary to the law.

8.8.1 Here we find that the Appellant's contention is that the goods received back from the Job worker are intermediate goods and used in their factory of the Appellant for further manufacture. The Respondent on the other hand contends that the goods are not intermediate goods. We have also perused the Rule 2(k)(i) of the CENVAT Credit Rules, 2004, which defines "input" as "all goods used in the factory by the manufacturer of the final product" and the rule outlines which items are considered inputs and thus eligible for credit:

- **"All goods used in the factory"**: This is a broad term that, in its legal interpretation, has been found to cover all goods, whether or not they are physically present in the final product. This includes everything from raw materials to fuel used for generation of electricity for captive use.
- **"Used...by the manufacturer of the final product"**: This establishes that the input must be used by the manufacturer and related to the production of the finished good.
- **"Directly or indirectly"**: The input can be used in the manufacturing process either directly (e.g., raw materials) or indirectly (e.g., goods used to maintain machinery).

8.8.2 From the above Rule 2(k)(i) of CCR, it is clear that whatever be the input received back whether known as inputs or intermediate goods are inputs at the hands of the Appellant and they are eligible for Credit on the goods returned back.

8.9 We find that the respondent has not given any clear findings as to whether the double-availment pre-supposes that the appellant has effectively claimed credit twice for the same duty component — i.e., the identical duty head/amount on the same physical quantity and on the same taxable event. The onus to demonstrate such identity rests with the Revenue. In the present case the appellant has produced job-worker invoices, Challans, showing the separate duty event and the actual payment by the job-worker. We find that the documents show that the original CENVAT taken related to duty on the raw input; the subsequent credit relates to the duty paid on the intermediate product (a different taxable event and in value composition different from original). Further it is not disputed that there is no sale or clearance of goods to attract the provisions of Rule 3(5) of CCR 2004. The Revenue has also not produced evidence showing any identical duty element being availed twice by the appellant.

8.10 We also further find that whatever Duty was paid on the inputs is availed by the Appellant for which there is no bar either under Rule 3(5) or Rule 4(5) (a) of CCR 2004 and further there is no condition in the said CENVAT Credit Rules that it should be availed in tandem with Notification 214/86 CE as amended which has been harped upon by the LAA in respected of the SOD mentioned in SI No 3 of the Table above. Our above finding for the Appeal Nos 42350-42351/16 are also applicable to Appeal No 42369/2019 as both are based on the same set of facts.

8.11 The Appellant finally submitted that the issue is settled in favour of the Appellant placing reliance on the following decisions: -

- i. *Bharat Heavy Electricals Ltd Vs CCE (2014) 300 ELT 442.*
- ii. *Commissioner of Central Excise, Customs and Service Tax Vs. Sarabhai Chemicals (2017) 346 ELT 458.*
- iii. *c)Principal Commissioner Vs. Sarabhai Chemicals 2017 (346) ELT A136.*
- iv. *Thermax Ltd. v. CCE, Vadodara (2015) (326 ELT 369*
- v. *Bright Steel Mac Fabrics Vs Commissioner of Central Excise (1994) 69 ELT 276. 1997 94 ELT A415.*

8.12.1 We have perused all the above decisions and find that in the case of *M/s. Bharat Heavy Electricals Ltd. Versus CCE & ST. - Meerut-I [2014 (300) E.L.T. 442 (Tri. - Del.)]* it was held that: -

*"Logically, the ground on which the CENVAT Credit is sought to be denied is totally incorrect. There is no condition in Rule 4(5)(a) of the CENVAT Credit Rules, 2004 that job worker should necessarily avail of full duty Exemption under Notification No.214/86-CE. This exemption being a conditional exemption, is not required to be compulsorily availed by job-workers.*

*When the inputs, in question, have suffered twice, first in the hand of input manufacturers from whom the Appellant had procured the inputs and second time in the hand of job workers who at the time of clearance of intermediate products made out of the inputs paid duty on value which included the cost of the inputs, the credit of the duty paid on the intermediate product cannot be denied when such intermediate products were made out of those inputs, even if the Appellant had earlier taken the CENVAT Credit in respect of inputs while receiving the same.*

*The intermediate products made out of inputs are different from inputs and just because the Appellant have availed CENVAT Credit in respect of the inputs, the CENVAT Credit of duty, if any paid on the intermediate products by the job-workers, cannot be denied to the principal manufactures. - Decided in favour of assessee".*

8.12.2 We also find that the Tribunal in the case of *M/s. Thermax Ltd. Versus CCE Vadodara-I 2015 (326) E.L.T. 369 (Tri. - Ahmd.)* held in Para 7 of the Order that: -

*"7. Thus on perusal of the above Rule, it is clear that a manufacturer who has availed CENVAT credit in respect of inputs, can send those inputs to his job worker for further processing, testing, repair, reconditioning, etc. or for manufacture of intermediate goods necessary for the manufacture of final products or for any other purpose, provided the processed inputs or intermediate products are returned back within a period of 180 days. There is no*

*condition that for availing the facility of this Rule, the job worker should avail full duty exemption under Notification No. 214/86-C.E. There is no dispute that intermediate products made out of the inputs supplied by the Appellant were received back from the job workers within the stipulated period. The only point of dispute is as to whether the Appellant would be eligible for CENVAT credit of the duty paid by the job workers on the intermediate products which had been paid on the value equal to the cost of the free supply inputs excluding excise duty (the credit of which had been taken by the Appellant) plus job charges plus value of any other inputs of their own used by the said job workers for manufacture of the intermediate products. The Department seeks to deny the CENVAT credit of the duty on the intermediate product paid by the job workers on the ground that on the same inputs, CENVAT credit cannot be availed twice - first at the time of receipt the inputs by the Appellant in their factory from the input manufacturers and second time in respect of duty paid on intermediates goods made out of input supplied by Appellant upon receiving the same from the job workers. Logically, the ground on which the CENVAT credit is sought to be denied is totally incorrect. There is no condition in Rule 4(5)(a) of the CENVAT Credit Rules, 2004 that job worker should necessarily avail of full duty Exemption under Notification No. 214/86-C.E. This exemption being a conditional exemption, is not required to be compulsorily availed by job workers. If the job worker decides to pay the duty on the intermediate products manufactured by him on job-work basis for the principal manufacturer, in terms of the judgment of the Apex Court in case of Ujagar Prints v. Union of India, reported in 1989 (39) E.L.T. 493 (S.C.), they would be required to pay duty on the cost of input plus job charges including the cost of their own inputs used in manufacture. This is what the job workers have done in the present case. Moreover when the inputs, in question, have suffered twice, first in the hand of input*

*manufacturers from whom the Appellant had procured the inputs and second time in the hand of job workers who at the time of clearance of intermediate products made out of the inputs paid duty on value which included the cost of the inputs, the credit of the duty paid on the intermediate product cannot be denied when such intermediate were made out of those inputs, even if the Appellant had earlier taken the CENVAT credit in respect of inputs while receiving the same. In any case, the intermediate products made out of inputs are different from inputs and just because the Appellant have availed CENVAT credit in respect of the inputs, the CENVAT credit of duty, if any paid on the intermediate products by the job workers, cannot be denied to the principal manufactures.”*

8.13 We have perused the other decisions also relied upon by the Appellant, and all of them are squarely applicable to the present case. We also find that there are a plethora of cases decided by the Courts and Tribunal in favour of the Appellant and we do not wish to reproduce here them for the sake of prolixity.

8.14 In view of our above Findings and respectfully following the ratio of the above decisions, we hold that the availment of credit on the goods before being sent for the Job work and after it is received back from job work is in Order and there is no dual availment of CENVAT Credit and the Impugned Order-in-Original Nos. 49 & 50/2016 CE dated 19.7.2016 covered by Appeal Nos. E/42350-42351/2016 and Order in Appeal No 122/2019 (CTA-II) dated 16.05.2019

covered in another Appeal E/41469/2019 are not sustainable and so, ordered to be set aside.

8.15 On holding that there is no dual availment of Credit on the same input by us, we set aside the demand for reversal of CENVAT Credit availed on the inputs sent to Job worker. As the demand for reversal of CENVAT Credit is set aside, the demand of interest thereon and penalties will automatically get extinguished.

9. Thus, the Appeals are allowed with consequential benefits, if any, as per the Law.

(Order pronounced in open court on 30.10.2025)

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

MK

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