

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, CHENNAI**

Excise Appeal No. 42294 of 2017

(Arising out of Order in Appeal No. 54/2017 (CTA – I) dated 14.8.2017 passed by the Commissioner of GST & Central Excise (Appeals – I), Chennai)

M/s. Kingfa Science & Technology India Ltd. Appellant
(formerly known as M/s. Hydro S&S Industries Ltd.)
R.S. No. 38/1, Sedarapet
Puducherry – 605 111.

Vs.

Commissioner of GST & Central Excise Respondent
No. 1, Goubert Avenue
Puducherry – 605 001.

APPEARANCE:

Shri V. Arunachalesh, Advocate for the Appellant
Smt. G. Krupa, Authorised Representative for the Respondent

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Hon'ble Shri M. Ajit Kumar, Member (Technical)

FINAL ORDER NO. 40574/2026

Date of Hearing: 17.04.2026
Date of Decision: 06.05.2026

This appeal challenges Order in Appeal No. 54/2017 (CTA – I) dated 14.8.2017 passed by the Commissioner of GST & Central Excise (Appeals – I), Chennai.

2. Brief facts of the case are that the appellant is engaged in the manufacture of reaffirmed / filled polypropylene falling under Chapter 39 of CETA. During verification of records of the appellant by the department, it was found that they had taken input service credit on various services namely Security Service, Rent-a-Cab service, GTA Outward Transportation, Outward Courier Service for despatch of goods and Insurance Service for transportation of goods. Seven Show

Cause Notices were issued to the appellant proposing to demand a total CENVAT credit amount of Rs.8,78,146/-. After due process of law, the Ld. Original Authority confirmed the duty demand to the extent of Rs.8,27,006/- one involved on (i) outward transportation service, (ii) outward courier and (iii) insurance services and imposed a penalty of Rs.82,701/- under Rule 15(1) of the CENVAT Credit Rules, 2004 and allowed CENVAT credit in respect of security service and rent-a-cab service. The appeal preferred by the appellant before the Ld. Commissioner (Appeals) came to be rejected. Hence the present appeal.

3. The Ld. Advocate Shri V. Arunachalesh appeared for the appellant and Ld. Authorized Representative Smt. G. Krupa appeared for the respondent.

Submissions made by the Appellant

3.1 Shri V. Arunachalesh the Ld. Advocate for the appellant submitted as follows:

A. The CENVAT credit was available to the appellant upto the place of removal which was the customer's premises and that the goods in question were transported on FOR destination basis.

B. The issue is covered by assessee's own case in E/422/2012 dated 12.2.2013, under their earlier name M/s Hydros S & S Industries Ltd. in their favour.

C. Availment of CENVAT credit for the period October 2009 to August 2010 towards outward transportation of goods under GTA service and insurance service availed for transportation of the goods was eligible, as the place of removal is based on FOR destination basis.

D. Reliance is also placed on the order of this Tribunal in E/40346 & 40347/2021 in the case of Ramco Cements Ltd. dated 16.10.2024

E. There was no reason to delay the adjudication by keeping the case in CALL BOOK and the revenue is put to strict proof of the same. The Ld. Counsel prayed that the appeal may be allowed.

Submissions made by the Respondent-Revenue

3.2 Smt. G. Krupa Ld. Authorized Representative appearing on behalf of Revenue submitted, that the legal issue was no longer res integra and has been decided by the Apex Court in **COMMISSIONER OF CENTRAL EXCISE AND S.T. Vs ULTRA TECH CEMENT LTD [2018 (9) G.S.T.L. 337 (S.C.), Dated: 01.02.2018]**. She stated that as per the said judgment it was held that Cenvat Credit on goods transport agency service availed for transport of goods from place of removal to buyer's premises was not admissible. She hence prayed that the appeal may be rejected.

Analysis

4. I have heard the parties and perused the appeals.

5. I find that the judgment of the Hon'ble Supreme Court in **ULTRA TECH CEMENT LTD**, dated: 01.02.2018 (supra) cited by Revenue, came up for consideration by a Larger Bench of this Tribunal in **M/s. The Ramco Cements Limited Vs The Commissioner of Central Excise, Pondicherry** [Interim Order No. 40020/2023 date 21.12.2023]. The outcome has been encapsulated by a Coordinate Bench of this Tribunal in the said assessee's own case i.e. **M/s. The Ramco Cements Limited Vs The Commissioner of Central Excise,**

Trichy, Final Order Nos. 41290 & 41291 / 2024, Dated 16.10.24. The relevant portion is extracted below:

"7. The issue is no more res integra as the same has been finally decided by the **Larger Bench** vide **M/s. The Ramco Cements Limited Vs The Commissioner of Central Excise, Pondicherry** [Interim Order No. 40020/2023 date 21.12.2023] wherein it was held as follows: -

"35. In the result, in a case where clearances of goods are against FOR contract basis, the authority needs to ascertain the 'place of removal' by applying the judgments of the Supreme Court in Emco and Roofit Industries, the decision of the Karnataka High Court in Bharat Fritz Werner, and the Circular dated 08.06.2018 of the Board to determine the admissibility of CENVAT credit on the GTA Service upto the place of removal.

36. The reference is answered accordingly. The appeal shall now be listed before the Division Bench for hearing."

8. From the appeal records, it is evident that in the case of **Commissioner of Central Excise & Service Tax Vs Ultra Tech Cement Limited** [2018 (9) GSTL 337 (SC)], the Hon'ble Apex Court had held that credit of service tax paid for outward transportation of goods is not eligible. The **Board vide Circular No. 1065/4/2018-CX dated 08.06.2018** had issued a clarification wherein it was stated that **the place of removal has to be determined as per the decision of the Hon'ble Supreme Court in the case of M/s. Commissioner of Customs and Central Excise, Aurangabad Vs Roofit Industries Ltd. [2015 (319) E.L.T. 221 (S.C.)] and in the case of Commissioner of Central Excise Vs Ispat Industries Ltd. [2015 (324) ELT 670 (SC)]**. If the buyer's premises is the place of removal, the appellant would be eligible for credit. The very same issue was referred to the Larger Bench and as per the decision of the Larger Bench vide Interim Order No. 40020/2023 dated 21.12.2023, it was held that **in a case where clearances of goods are against FOR contract basis, the Department has to ascertain the place of removal by applying the judgments of the Supreme Court in Commissioner of Central Excise, Mumbai-III Vs. Emco Ltd. [2015 (322) ELT 394 (SC)] and Roofit Industries Ltd. (supra) and also the decision of the Karnataka High Court in Bharat Fritz Werner Ltd. CCT, Bangalore [2022 (66) GSTL 434 (Kar.)]** and as well as the Board Circular dated 08.06.2018 to determine the

admissibility of CENVAT credit on outward transportation of goods upto the place of removal.

9. Considered the Ld. Consultant's submissions that the Agreements entered into between the appellant and the transporters as well as the agreements with the customers / dealers would show that the sale was on FOR destination basis. The invoices also would show that the goods were to be delivered at the buyers' premises. Under these circumstances, the buyers' premises is the place of removal and so, the appellant is eligible for credit.

10. Further, in the appellant's own case M/s. The Ramco Cements Limited Vs. Commissioner of GST and Central Excise [F.O.No. 40843/2023 dated 10.07.2024], the Tribunal Chennai had recently held as follows: -

"5. The issue to be decided is whether the appellant is eligible for credit of service tax paid on outward transportation of goods upto the place of removal. There has been much litigation on this issue. Recently, the Larger Bench of the Tribunal vide Interim Order No. 40020/2023 dated 21.12.2023 held that the place of removal has to be ascertained by applying the judgments of the Hon'ble Supreme Court in the case of Emco (supra), Roofit Industries Ltd. (supra) as well as the decision of the Hon'ble High of Karnataka in the case of Bharat Fritz Werner Ltd. (supra). The Board Circular dated 08.06.2018 is also applicable to decide the admissibility of CENVAT credit. The relevant paragraph reads as under:-

"35. In the result, in a case where clearances of goods are against FOR contract basis, the authority needs to ascertain the 'place of removal' by applying the judgments of the Supreme Court in Emco and Roofit Industries, the decision of the Karnataka High Court in Bharat Fritz Werner, and the Circular dated 08.06.2018 of the Board to determine the admissibility of CENVAT credit on the GTA Service upto the place of removal."

6. The Ld. Consultant has submitted that the sale was on FOR basis, the place of removal is the buyer's premises. Various agreements as well as the invoices have been placed before us. However, these documents require to be verified, to ascertain the place of removal. Needless to say, if the contracts are on FOR basis, the appellant is eligible for CENVAT credit of service tax paid upto the place of removal for the disputed period. In other words if the freight

element is included in the assessable value for payment of excise duty, the credit of service tax paid on such freight charges is eligible.

7. In the appellant's own case vide Final Order No. 41027/2023 dated 07.11.2023, the Tribunal had considered the definition of input services prior to 01.04.2008 as well as after 01.04.2008 and held that the credit is eligible.

8. In such circumstances, we are of the considered opinion that the matter requires to be remanded to the Adjudicating Authority who is directed to verify the documents and ascertain the place of removal. In case buyer's premises is the place of removal, the appellant would be eligible for credit. The decision of the Tribunal passed in the appellant's own case dated 07.11.2023 as well as the decision of the Larger Bench would be applicable."

11. In compliance with the judicial discipline and appreciating the above decisions cited supra, these appeals are allowed by way of remand to the Lower Adjudicating Authority who is directed to verify the documents and ascertain the place of removal. **The appellant would be eligible for the CENVAT credit, in case, the Buyer's premises is the place of removal.** The decision passed by the Tribunal in their own case as well as the Larger Bench decision vide [Interim Order No. 40020/2023 date 21.12.2023] would be applicable."

(emphasis added)

6. In the present appeal also the appellant has consistently held that the goods are sold on a FOR destination basis; that the freight charges are an integral part of the invoice and that the risk attached is that of the appellant and not the buyer; that the transfer of property in the final product takes place at the buyers premises. The same has not been found to be wrongly stated by the department. Further in the appellants own case i.e. **M/s Hydro S & S Industries Ltd. (earlier name) Vs Commr of C. Ex., Trichirapalli** [E/422/2012 dated 12.02.2013], this Tribunal found that the goods were delivered at the

customers place and that there is no reason to deny the Cenvat credit on GTA services.

7. I find that there is nothing on record to show that the judgment of the Coordinate Bench of this Tribunal in **Ramco** dated 16.10.24 or **Hydros S & S Industries** dated 12.02.2013, have been varied or set aside in favour of Revenue, by a higher forum. In the circumstances credit on the Service Tax paid on the freight and insurance service availed for transportation of the goods from their factory gate to the buyers premises (place of removal), cannot be denied.

8. As regards Courier services for despatch of goods, it is an input services used by the appellant directly or indirectly in the manufacture of the goods, whereby Cenvat credit is equally admissible and cannot be denied.

9. For the reasons discussed the impugned order is set aside and the appeal is allowed with consequential relief, as per law. The appeal is disposed of accordingly.

(Order pronounced in open court on 06.05.2026)

Sd/-
(**M. AJIT KUMAR**)
Member (Technical)

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