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

Service Tax Appeal Nos. 41525 & 41526 of 2016

(Arising out of Order in Original No. CHN-SVTAX-001-COM-112 & 113/2015-16-ST 1 dated 31.03.2016 passed by the Principal Commissioner of Service Tax – I, Chennai)

And

Service Tax Appeal No. 40515 of 2019

(Arising out of OIA No. 669/2018 dated 24.12.2018 passed by the Commissioner of Service Tax (Appeals), Chennai)

Exide Industries Ltd. **Appellant**
A Block, 4th Floor, Navin's Presidium
103-A, Nelson Manickam Road
Aminjikarai, Chennai – 600 029.

Vs.

Commissioner of GST & Central Excise **Respondent**
Chennai Noruth Commissionerate
26/1, Mahatma Gandhi Road
Nungambakkam, Chennai – 600 034.

APPEARANCE:

Shri Raghav Rajeev, Advocate for the Appellant
Smt. O.M. Reena, Authorised Representative for the Respondent

CORAM

Hon'ble Shri M. Ajit Kumar, Member (Technical)
Hon'ble Shri Ajayan T.V., Member (Judicial)

FINAL ORDER NOS. 40952 TO 40954/2026

Date of Hearing: 30.04.2026
Date of Decision: 21.08.2026

Per M. Ajit Kumar,

1. These appeals are directed against Order-in-Original No. CHN-SVTAX-001-COM-112 & 113/2015-16-ST-1 dated 31.03.2016 passed by the Principal Commissioner of Service Tax-I, Chennai and Order-in-Appeal No. 669/2018 dated 24.12.2018 passed by the Commissioner of GST & Central Excise (Appeals), Chennai.

Factual Matrix

2. Briefly stated, the appellant, registered with the Service Tax Department for providing, inter alia, Maintenance or Repair Service and as an Input Service Distributor (ISD), received batteries manufactured at its various factories at its Chennai depot on stock transfer for storage and subsequent supply to dealers. The appellant paid Service Tax under reverse charge on GTA services used for transportation to the depot and availed and distributed the corresponding credit through the ISD mechanism. During audit, it was observed that the appellant also bore freight for transportation of batteries from the depot to dealers and paid Service Tax as consignor under GTA. Accordingly (i) treating the depot as the place of removal, the Department proposed denial of CENVAT credit on such outward transportation for the period January 2010 to August 2013. (ii) Credit relating to repair and maintenance services provided by contractors at dealers' premises during the same period was also proposed to be denied on the ground that such services were rendered beyond the place of removal. (iii) A further short-payment of Service Tax under reverse charge on GTA services was also alleged. Hence, Show Cause Notice dated 30.03.2015 was issued proposing recovery of the aforesaid amounts with interest and penalties. Statement of Demand No. 40/2015 dated 06.04.2015 was also issued for the period September 2013 to September 2014 proposing recovery on account of outward transportation and repair and maintenance services. The Principal Commissioner confirmed the demands with interest and imposed penalties under Sections 78 and 76 of the Finance Act, 1994. A further, Statement of Demand No. 02/2017-GST (C.N.) dated 02.08.2017 was issued proposing denial of

CENVAT credit on outward GTA services for the period October 2014 to September 2015 and was confirmed by the ld. Addl. Commissioner. The ld. Commissioner (Appeals) upheld the demand with interest and imposed penalty under Section 76 of the Finance Act, 1994. Aggrieved by the aforesaid orders, the appellant has filed the present appeals. Since the issues involved are similar, they are being disposed of by this common order.

3. The learned Advocate Shri Raghav Rajeev appeared for the appellant and Ld. Authorized Representative Smt. O.M. Reena appeared for the respondent.

Submissions made by the Appellant

3.1 Shri Raghav Rajeev Ld. Counsel for the appellant submitted a Table showing the consolidated particulars of demand pertaining to the present appeal which is reproduced below:

S. No.	Particulars	ST/41525/ 2016	ST/41526/ 2016	ST/40515/ 2019	Total
1.	Cenvat credit disallowed on Outward GTA	1,83,60,934	1,07,52,659	88,92,668	3,80,06,261
2.	Cenvat credit disallowed on renting of depot service*	44,96,499	26,91,174	-	71,87,673
3.	Cenvat credit disallowed on manpower service*	88,78,780	49,97,112	-	1,38,75,892
4.	Service tax demanded on GTA	1,58,222	-	-	1,58,222

* The credit has been disallowed on the ground that such input service are in nature of repair and maintenance service provided by contractors.

i) Appeal ST/40525/2016, pertains to SCN dated 30.03.2015 and covers the period January 2010 to August 2013.

ii) Appeal ST/41526/2016, pertains to SOD dated 06.04.2015 and covers the period September 2013 to September 2014.

iii) Appeal ST/40515/2019, pertains to SOD dated 02.08.2017 and covers the period October 2014 to September 2015.

He further submitted that:

A. Credit on outward transportation up to the place of removal is legally admissible

The denial of Cenvat credit on GTA outward transportation is founded on the premise that the depot alone constitutes the place of removal. The said finding is contrary to the statutory scheme and the evidentiary record. Sales invoices prove goods were sold on a Free on Road (**FOR**) destination basis with freight borne by the Appellant, making the buyer's premises the "place of removal" under Rule 2(l) and 2(qa) of the CCR. This position is supported by CBEC/CBIC Circulars dated 23.08.2007 and 08.06.2018 and settled by the Supreme Court in **CCE Vs Roofit Industries** [2015 (319) ELT 221 (SC)], along with **Bharat Fritz Werner Ltd.** [2022 (7) TMI 352-Karnataka High Court], and the Larger Bench in **Ramco Cements Ltd.** [2025 (9) TMI 674-CESTAT Chennai]. Further payment of VAT at the depot is not determinative of the place of removal under the CCR.

B. Demand under Rule 14 of the CCR is without jurisdiction as against the ISD

The confirmation of demand on the Appellant in its capacity as Input Service Distributor is ex facie without jurisdiction. An Input Service Distributor (ISD) is a mere statutory conduit for credit distribution. Any recovery of allegedly inadmissible credit must be initiated against the independent, registered recipient units that availed it, not the ISD. He placed reliance on the following cases laws:

i. Indian Oil Corporation Ltd. v. Commr. of C.EX Delhi 2014 (10) TMI 729-CESTAT NEW DELHI

ii. Mahindra & Mahindra Ltd. Versus Comm. of Service tax, Mumbai - 2017 (7) TMI 167-CESTAT Mumbai

iii. Mahindra & Mahindra v. Commissioner of Service Tax-Mumbai II-2018 (4) TMI 670-CESTAT Mumbai

iv. Kansai Nerolac Paints Ltd. v. Commissioner of GST, Mumbai-2018 (5) TMI 673-CESTAT MUMBAI

v. Himadri Speciality Chemicals and Industries Limited v. Principal Commissioner of Service Tax-1. Kolkata-2020 (1) TMI 69-CESTAT Kolkata

vi. Microlabs Ltd. v. Commissioner of Central Tax, Bangalore 2018 (5) TMI 564-

vii. Chettinad Cements Corporation Pvt. Lul. Versus Commissioner of GST & Central Excise Chennai North-2019 (10) TMI 10-CESTAT Chennai

viii. Chettinad Cements Corporation Pvt. Ltd. Versus Commissioner of G.S.T. and Central Excise. Chennai-2021 (3) TMI 1168-CESTAT Chennai

This jurisdictional flaw goes to the root of the proceedings and can be raised at any stage (CST v. Sarjoo Prasad Ram Kumar, 1972 SCC OnLine SC 3). On this ground alone, the Impugned Order is liable to be set aside.

C. <u>Credit on manpower supply and godown/depot rent is admissible</u>

The impugned orders wrongly assumes credit was taken for repairs and maintenance services at customer premises. The show cause notice and the annexures thereto disclose that the disputed services are, in fact, manpower supply services and renting of godown/depot services. These services are integrally connected to the manufacture, storage, and sale of batteries, falling under "activities relating to business" (pre-2011) and the inclusive limb for recruitment/clearance (post-2011).

Credit on manpower supply and godown/depot rent has been held admissible in **Hindustan Unilever Ltd. Vs Commissioner of GST & Central Excise, Puducherry** [2025 (8) TMI 711 (CESTAT-Chennai)], **Commissioner Vs Mark Exhaust Systems Ltd.,** [2017 (47) S.T.R. 167 (Tri.-Del.)] and **Indian Terrain Fashions Ltd. Vs Commissioner of GST & Central Excise, Chennai**, [2025 (4) TMI 1285 (CESTAT-Chennai)]. The disallowance of credit on this count is accordingly unsustainable.

D. In any event, the disputed services are covered by the wide ambit of "input service" under Rule 2(l) of the CCR and the credit is admissible.

E. Extended period of limitation is not invocable

The demand for the period January 2010 to March 2013 has been confirmed by invoking the extended period. Credit details were fully disclosed in ST-3 returns and statutory records, which were later audited. The issue is purely a matter of statutory interpretation (as recognized by the CBIC Circular dated 08.06.2018). Reliance is placed on **Anand Nishikawa Co. Ltd. Vs CCE, Meerut**, 2005 (188) E.L.T. 149 (S.C.), **Hindustan Steel Ltd. Vs State of Orissa**, 1969 (2) SCC 627, APC **Drilling and Construction Co. Vs Commissioner of GST & Central Excise, Salem**, 2025 (8) TMI 571 (CESTAT-Chennai) and **Environment Planning & Coordination Organization Vs Principal Commissioner**, 2025 (7) TMI 150 (CESTAT-New Delhi). The CBIC Circular dated 08.06.2018 also recognises that disputes relating to outward transportation credit are interpretational in nature. The demand is therefore barred by limitation to the extent it travels beyond the normal period.

F. Interest and penalty are not sustainable

Since the underlying demand is unsustainable on merits and barred by limitation, the consequential interest and penalties must fail automatically.

G. Order of remand by Commr. (Appeals) is erroneous

Order in Appeal in Appeal No. ST/40515 of 2019 remanding the issue back to the Adjudicating Authority to verify if the Appellant is a ISD unit is completely erroneous since a copy ISD registration was placed before the Appellate Authority. The Credit in dispute is also distributed by the Appellant and the same is admitted in all the Notices. ISD invoices were also raised by the Appellant for distribution of credit.

He prayed that the impugned orders may be set aside.

Submissions made by the Respondent-Revenue

3.2 Smt. O.M. Reena Ld. Authorized Representative appeared for the respondent. She took us through the impugned order and submitted that:

A. The depot was the place of removal, as the goods were sold from the depot and VAT was discharged thereon.

B. CENVAT credit on outward transportation is admissible only if the conditions in Board Circular No. 97/6/2007-ST dated 23.08.2007 are satisfied, namely that ownership remained with the seller till delivery, title passed only at the buyer's doorstep, and freight formed part of the assessable value, as held in **Ambuja Cements Ltd. v. Union of India**.

C. Maintenance and repair services were post-manufacture, post-sale activities performed at customers' premises and had no nexus with manufacture or provision of output service.

D. The appellant failed to produce warranty contracts or other evidence to establish that such services formed part of the sale transaction.

E. Mere business expenditure does not qualify as an input service under the CENVAT Credit Rules.

F. The show cause notice had already excluded exempt GTA freight from the taxable value; in the absence of supporting documents for any further exemption, the demand of Rs. 1,58,882/- was correctly quantified and sustained.

The Ld. A.R. prayed that the appeal may be rejected.

Discussion

4. Having heard the parties to the dispute and carefully considering the connected documents we find that the following issues arise for consideration, whether:

A. Credit on outward transportation up to the place of removal is legally admissible

B. Credit on repairs and maintenance service is legally admissible

C. Demand under Rule 14 of the CCR is without jurisdiction as against the ISD and Order of remand by Commr. (Appeals) is erroneous.

D. Short payment of tax of Rs.1,58,222/- on reverse charges in respect of Transport of Goods

E. Demand is time barred and interest and penalty are sustainable

We find that the dispute relating to outward transportation is a contentious one. Hence the issue of time-bar cannot be gleaned merely from a record of the events, a proper threefold scrutiny would be necessitated: first, whether the demand is sustainable on merits; second, whether it falls beyond the normal period of limitation; and third, whether the Department has established, by cogent evidence, deliberate suppression or willful misstatement with intent to evade Service Tax. Accordingly, the merits of the demand must be examined first. Only if the demand survives on merits does the question of examining the valid invocation of the extended period arise. We hence proceed accordingly. We take up the issues sequentially

5. Credit on outward transportation up to the place of removal is legally admissible.

5.1 The period under consideration from January 2010 to 2015, which covers the pre and post 01.04.2011 period, when major changes were introduced in the Rules pertaining to input and input service credit. The Appellant is of the view that since the goods were sold on FOR-destination basis, with freight borne by it, the buyers' premises would constitute the place of removal under Rules 2(l) and 2(qa) of the CENVAT Credit Rules, 2004. It is submitted that payment of VAT/CST at the depot or at the time of clearance is not determinative of the place of removal for the purposes of availment of CENVAT credit. Per contra, the Revenue contends that the factory/depot was the place of removal, as the goods stood cleared on payment of duty and tax including VAT, and that credit on outward transportation would be admissible only where the conditions prescribed in Board Circular No. 97/6/2007-ST dated 23.08.2007 are satisfied, namely, that ownership remained with the seller till delivery, title passed at the buyers' premises, and freight formed part of the assessable value.

5.2 We have considered the rival submissions and perused the records. As per para 2.1 of the SCN dated 30.03.2015, the Appellant is delivering the batteries manufactured at its factories and stored at its depots to its retailers / dealers, by bearing the transport charges as consignor. It pays Service Tax on 'Goods Transport Agency' and then avails credit on the tax paid on such transportation. It is the contention of Revenue that Service Tax paid on outward transportation from the place of removal, which is the depot, in not eligible to be availed as CENVAT credit.

5.3 In **Commissioner of Central Excise & Service Tax Vs Ultratech Cement Ltd.** [2018 (9) G.S.T.L. 337 (S.C.)], the Hon'ble Supreme Court held that CENVAT credit on GTA service is admissible only up to the place of removal. The Board, vide **Circular No. 1065/4/2018-CX dated 08.06.2018**, clarified that the place of removal is to be determined with reference to the judgments of the Hon'ble Supreme Court in **Roofit Industries Ltd.** [2015 (319) E.L.T. 221 (S.C.)], **Ispat Industries Ltd.** [2015 (324) E.L.T. 670 (S.C.)] and **Emco Ltd.** [2015 (322) E.L.T. 394 (S.C.)]. It further clarified that the eligibility of CENVAT credit on Goods Transport Agency (GTA) services used for the outward transportation of final products depends on whether buyer's premises qualify as the "place of removal". This has to be decided on the specific facts, terms of sale, transfer of risk, and ownership during transit.

5.4 The Larger Bench of this Tribunal in **Ramco Cements Ltd**., Interim Order No. 40020/2023 dated 21.12.2023 [2023 (12) TMI 1332 (CESTAT Chennai LB)], held that in cases involving FOR-contracts, the place of removal has to be determined by applying the said judgments, the decision of the Hon’ble Karnataka High Court in **Bharat Fritz Werner Ltd. Vs Commissioner of Central Tax, Bangalore** [2022 (66) G.S.T.L. 434 (Kar.)], and the aforesaid Board Circular dated 08.06.2018. The said view has subsequently also been followed recently in **The Ramco Cements Ltd. Vs Commissioner of GST & Central Excise, Anna Nagar** [2025 (9) TMI 674 (CESTAT Chennai)].

5.5 In the present case, the Appellant contends that the judgment in **Ultratech Cement Ltd**. (supra) was rendered in the context of sales where the place of removal was not shown to extend up to the buyers’ premises, whereas the present transactions are governed by FOR-destination terms. It is submitted that effective control over the goods and the risk during transit remained with the Appellant until delivery at the retailers premises and that the sale was completed only upon such delivery. According to the Appellant, the retailers premises would, therefore, qualify as the place of removal even within the meaning of Rule 2(qa)(iii) of the CENVAT Credit Rules, 2004, was inserted by Notification 21/2014-CE (NT), dated 11.07.2014. Rule 2(qa), for ease of reference, reads as under:

> “**2(qa) ‘place of removal’ means**— (i) a factory or any other place or premises of production or manufacture of the excisable goods;
>
> (ii) a warehouse or any other place or premises wherein the excisable goods have been permitted to be deposited without payment of duty;
>
> (iii) a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the factory;
> from where such goods are removed;”

5.6 The Appellant has placed reliance on the purchase orders, invoices and insurance documents to submit that the goods were sold on FOR-basis, that freight formed part of the invoice value, that the risk of loss or damage during transit remained with the Appellant, and that property in the goods passed only at the buyers' premises. We find that these factual aspects, including inclusion of freight in the transaction value and retention of transit risk by the Appellant, have not been effectively controverted by the Department.

5.7 Under **Section 2(h) of the Central Excise Act, 1944** sale and purchase, with their grammatical variations and cognate expressions, mean any transfer of the possession of goods by one person to another in the ordinary course of trade or business for cash or deferred payment or other valuable consideration. **Therefore, in determining the place of removal in a FOR-destination transaction, the contractual terms and contemporaneous documents evidencing the point of sale, particularly those indicating where possession of the goods was transferred, property in the goods passed, and the risk associated with the goods was assumed, assume significance. Payment of duty or VAT/CST at an earlier stage, by itself, cannot be treated as conclusive for determining the place of removal under the CENVAT Credit Rules.**

5.8 In view of the undisputed FOR-destination terms, inclusion of freight in the invoice value, retention of risk by the Appellant during transit and transfer of property only upon delivery at the retailers premises while also considering Board's Circular dated 08.06.2018 and the Order of the Larger Bench of this Tribunal in **Ramco Cements Ltd**. (supra), we hold that the retailers premises constituted the place of removal in the facts of the present case. The GTA service used for transportation of goods up to such place is, therefore, an input service within the meaning of Rule 2(l) of the CENVAT Credit Rules, 2004, and the Appellant is eligible to avail CENVAT credit thereon.

6. <u>Credit on manpower supply and godown/depot rent</u>

The Appellant contends that the impugned orders wrongly proceeded on the assumption that the disputed credit related to repairs and maintenance services at customers' premises. The Show Cause Notice and its annexures, however, establish that the disputed services were manpower supply and renting of godown/depot services.

6.1 Manpower was centrally procured at the Chennai office and deployed to various factories as required, while the godowns were used for storage of finished products. These services are integrally connected with the manufacture and storage of batteries and, as applicable to the relevant period, fall within the scope of "activities relating to business" and the inclusive limb of the definition of input service.

6.2 Credit on such services has been held admissible in **Hindustan Unilever Ltd. Vs Commissioner of GST & Central Excise, Puducherry** [2025 (8) TMI 711 (CESTAT-Chennai)], **Commissioner Vs Mark Exhaust Systems Ltd.** [2017 (47) S.T.R. 167 (Tri.-Del.)] and **Indian Terrain Fashions Ltd. Vs Commissioner of GST & Central Excise, Chennai** [2025 (4) TMI 1285 (CESTAT-Chennai)].

6.3 We find that the Revenue's contention that the services related to post-manufacture and post-sale activities at customers' premises is therefore factually misplaced. The Hon'ble Madras High Court in **Commissioner of Central Excise, Coimbatore Vs M/s. Pricol,** C.M.A. No.2707 of 2017, dated 31.08.2017, has also upheld the admissibility of credit on manpower supply services having nexus with the manufacturing business. Further, in the present case, the place of removal has been held to be the premises of the retailers/dealers. The contention that the services are post-sale activities, therefore, cannot be sustained. **Moreover, Rule 2(l) does not, by itself, restrict input-service credit merely because an activity is undertaken after the sale of goods, except perhaps where the service relates to trading in goods. Activities such as advertising, sales promotion, market research, accounting, auditing etc., though having a post-sale component, may continue to qualify as input services even under the amended definition post 01.04.2011, provided the requisite nexus with the output service or use in the manufacture of goods, of the assessee, is established**.

6.4 We accordingly hold that the manpower supply services used for production, packing, maintenance, storage and allied manufacturing activities, as well as the godown/depot rent used for storage of finished products, have the requisite nexus with the Appellant's manufacturing activity. The denial of CENVAT credit on this count is therefore unsustainable and is set aside, subject to verification of the relevant invoices, payment of tax and compliance with the prescribed procedural requirements.

7. <u>Demand under Rule 14 of the CCR is without jurisdiction as against the ISD.</u>

7.1 The Appellants' submission that it is settled law that credit availed on the basis of a valid ISD invoice cannot be questioned by the jurisdictional officer at the ISD's end is stated too broadly. The issue requires examination in the context of the statutory scheme governing the availment, distribution and recovery of CENVAT credit. We, therefore, proceed to examine the legal issues arising for consideration.

7.2 At the outset it must be said that the introduction of the input credit schema was a major tax reform and a radical departure from the past with the avowed intent of removing the cascading effect of taxes. As held by the Hon'ble Supreme Court in **R. K. Garg Vs Union of India** [(1981) 4 SCC 675 / 1982 SCC (Tax) 30), every legislation particularly in economic matters is essentially empiric and it is based on experimentation or what one may call trial and error method and therefore it cannot provide for all possible situations or anticipate all possible abuses. Similarly, the Hon'ble Supreme Court in **State of Madhya Pradesh Vs Nandlal Jaiswal** [1987 (1) SCR 01] held that "in complex economic matters every decision is necessarily empiric, and it is based on experimentation" and that the court, while considering the validity of executive action relating to economic matters grant a certain measure of freedom or 'play in the joints' to the executive." The Hon'ble Supreme Court, in its recent judgment in **S. P. Chandrakar Vs State of Chhattisgarh & Ors.,** [2026 INSC 769, dated 30.07.2026], has also reiterated the principle that the validity of an action must be tested with reference to the substantive statutory power which confers jurisdiction, and that a mere wrong or erroneous reference to the provision under which such power is exercised would not, by itself, invalidate the action, provided the exercise is otherwise traceable to a lawful source of power. It held:

> "15. Here, briefly we may address another argument. It is trite in law that executive instructions cannot override statutory requirements. . . . Once the power exists and it is clear that this particular power has been exercised, the style

> under which it was exercised would not denude or weaken the authority enabling it to exercise such power."

7.3 We find that Rule 2(m) of the CCR, 2004 defines an ISD as an office of the manufacturer or provider of output service which receives invoices relating to input services and distributes the corresponding service tax credit to the eligible units. Rule 4A(2) of the Service Tax Rules, 1994 prescribes the particulars to be contained in an ISD invoice, including the particulars of the ISD, the recipient unit and the amount of credit distributed. The prescribed ISD document is not required to contain the complete description, nature or evidentiary particulars of the underlying input service. **The ISD document is therefore a document of distribution. It is not a complete record of the nature, use or nexus of the underlying service.**

7.4 Rule 7 of the CCR, 2004 governs the manner of distribution of credit by the ISD and prescribes conditions relating to the quantum and manner of such distribution. The statutory scheme thus contemplates distinct stages, namely, the **receipt** and taking of credit by the ISD in respect of input services, the **distribution** of such credit in accordance with Rule 7, and the subsequent **availment** and utilisation thereof by the recipient unit. Rule 9 prescribes the documents on the basis of which CENVAT credit may be availed and, under sub-rules (5) and (6), casts the burden of establishing the admissibility of the credit upon the person claiming it. Rule 14 provides for recovery of credit wrongly taken or erroneously refunded, from the manufacturer or provider of output service who has wrongly taken or utilised the credit, along with the applicable provisions of the Finance Act, 1994.

7.5 The above provisions, read together, make it necessary to distinguish between **(i) the eligibility of the underlying input service and the credit taken by the ISD, (ii) the distribution of such credit in accordance with Rule 7, and (iii) the independent availment or utilisation of the distributed credit by the recipient unit**.

7.6 We find that an ISD is not immune from proceedings for a contravention committed by it in the course of distribution of credit. Rule 7 casts specific obligations upon the ISD in regard to the manner and quantum of distribution. Thus, if an ISD distributed credit in excess of the credit available, or distributed credit in circumstances prohibited by Rule 7 or any other provision applicable to an ISD, the contravention is attributable to the ISD itself. A breach of those obligations is a contravention attributable to the ISD and may invite consequences prescribed under Finance Act 1994 and the CCR, 2004, as applicable during the relevant period. However the availability of a clear statutory mechanism for recovery of CENVAT credit distributed by an ISD from the ISD itself, requires to be settled.

7.7 The issue has now become academic. As discussed above the controversy regarding the admissibility of credit does not survive as we have found that the Appellant is eligible for CENVAT credit on outward transportation on FOR basis to the retailers' premises and for the credit of Service Tax paid on manpower supply and rental of depots/ godowns, as these would clearly amount to input service and CENVAT credit on the same is admissible. Hence the demand made in the OIO's in this regard and the remand of the appeal vide Order-in-Appeal dated 24.12.2018 merits to be set aside.

8. Short payment of tax of Rs.1,58,222/- on reverse charges in respect of Transport of Goods

8.1 As per the OIO dated 31.03.2016, a demand of Rs.1,58,222/- was confirmed towards short-paid service tax under reverse charge on Goods Transport Agency Services for the period January 2010 to August 2013. The Appellants submit that the demand for the period January 2010 to March 2013 has been confirmed by invoking the extended period of limitation under Rule 14 of the CCR read with the proviso to Section 73(1) of the Finance Act, 1994. The SCN is dated 30.03.2015. It is contended that there was no suppression or mala fide intention to avail or utilise ineligible credit and that the credit was duly reflected in the ST-3 returns. The mere detection of the issue during audit, therefore, cannot justify invocation of the extended period.

8.2 We find that the main issues involved and stated above have been resolved in the Appellants favour on merit. Further the demand in the present issue of reverse charge, covers the period from January 2010 to March 2013, whereas the Show Cause Notice was issued on 30.03.2015. Section 73(1) of the Finance Act, 1994, as it stood during the relevant period, prescribed a normal period of one year from the relevant date, which was enhanced to eighteen months with effect from 28.05.2012 by the Finance Act, 2012. Under Section 73(6), where a periodical return was required to be filed, the relevant date was the date on which such return was filed; where no return was filed, it was the last date prescribed for filing such return. Rule 7 of the Service Tax Rules, 1994 prescribed half-yearly ST-3 returns, to be filed ordinarily by 25 October and 25 April of the same year.

8.3 Assuming the returns were filed on the prescribed dates, the normal period for the respective periods from January 2010 up to March 2012 expired between 25.04.2011 and 25.04.2013. For the subsequent periods, the eighteen-month period expired on 25.04.2014 for April–September 2012 and on 25.10.2014 for October 2012–March 2013. The Show Cause Notice dated 30.03.2015 was therefore issued beyond the normal period prescribed under Section 73(1).

8.4 Consequently, the demand for the entire period January 2010 to March 2013, on account of this dispute, is beyond the normal period and can survive only if the extended period under the proviso to Section 73(1) is validly invoked. The mere fact that the alleged short-payment was noticed during audit cannot, by itself, justify invocation of the extended period. The Department is required to establish fraud, collusion, wilful misstatement, suppression of facts, or contravention of the provisions of the Finance Act or the Rules with intent to evade payment of service tax, as specifically contemplated by the proviso to Section 73(1). In the present case, the Appellants contend that the relevant particulars were duly disclosed in the ST-3 returns and that there was no suppression or wilful misstatement with intent to evade payment of service tax.

8.5 The Supreme Court in **Easland Combines, Coimbatore Vs Collector of Central Excise, Coimbatore** [(2003) 3 SCC 410 / 2003 (152) E.L.T. 39 (S.C.)), clarified that mere non-payment of duty or failure to obtain registration, absent of fraud, suppression, or willful misstatement, is insufficient to attract the extended limitation period. This principle was reaffirmed in **Uniworth Textiles Ltd. Vs Commissioner of Central Excise, Raipur** [2013 (288) E.L.T. 161

(S.C.)] wherein the Apex Court citing **Easland Combines** (supra), held that the Act contemplates a positive action which betrays a negative intention of willful default. No such case has been made out. Hence we accept the appellants plea that a case for invoking the extended period of time is not made out.

9. Interest and penalty are not sustainable

Considering that no demand survives, the question of interest and penalty also does not arise.

Conclusion

10. Accordingly, the impugned orders are set aside. The Appellant is eligible for consequential relief, as per law. The appeals are disposed of accordingly.

(Order pronounced in open court on 21.08.2026)

Sd/-	Sd/-
(**AJAYAN T.V.**)	(**M. AJIT KUMAR**)
Member (Judicial)	Member (Technical)

Rex