

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Excise Appeal No. 50571 of 2024

[Arising out of Order-in-Appeal No. DDN/EXCUS/000/APPL/68/2022-23 dated 25.10.2022 passed by the Commissioner of Central Goods & Service Tax (Appeals), Dehradun]

M/s. TPL Plastech Ltd.

54/55, NH-74, Alakh Devi,
Gadarpur, Distt-U.S. Nagar,
Uttarakhand-263154

...Appellant

VERSUS

**Commissioner of Central Excise & CGST,
Dehradun**

2nd & 3rd Floor, Shree Palace Natthanpur,
Dehradun, Uttarakhand - 248001

...Respondent

APPEARANCE:

Ms. Surabhi Sinha, Advocate for the Appellant
Shri Anuj Kumar Neeraj, Authorized Representative for the Respondent

CORAM:

HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)

DATE OF HEARING: 06.10.2025
DATE OF DECISION: **14.11.2025**

FINAL ORDER NO. 51794/2025

DR. RACHNA GUPTA

Present appeal is filed to assail the Order-in-Appeal No. 69/2022-23 dated 25.10.2020. The demand of Cenvat credit of Rs.93,662/- has been confirmed along with demand of service tax amounting to Rs.12,558/-. However, rest of the demand confirmed by original adjudicating authority has been dropped by Commissioner (Appeals). The facts in brief relevant for present adjudication are as follows:

1.1 M/s. TPL Plastech Ltd., the appellant herein, is registered with Central Excise Department for manufacturing HDPE Pipes. The appellant has been clearing this Final product upon payments of

duties and is also availing facilities of Cenvat credit on capital goods/input/input service and is utilizing the same for payment of Central Excise Duties. The appellant was also registered with service tax department. During the audit of the appellant for the period April 2016 to June 2017 it was observed that:

(i) the appellant had supplied HDPE pipes to M/s. NCC Ltd. and to various other parties without payment of central excise duty claiming benefit under Notification No. 108/95-CE dated 28.09.1995. The total supply is valued at Rs.26,63,472/-. It was observed that the appellant was not eligible for exemption from payment of central excise duty. Hence the excise duty of Rs.3.32.934/- was alleged recoverable from the appellant.

(ii) The appellant was observed to have availed the Cenvat credit against such services which do not fall in the ambit of eligible input services. As defined under rule 2(I) of Cenvat Credit Rules, 2004. Amount of Rs.93,662/- was observed to have been availed as Cenvat credit qua receiving technical inspection service/outward courier service/rent-cab services. The appellant need to reverse the Cenvat credit amounting to Rs.93,662/-.

(iii) With respect to maintenance and repair services 50% tax was observed to be the liability of the appellant in terms of Notification No. 30/2012 dated 20.06.2012, entry at Sl. No. 9. However the appellant was found to have not discharged the said liability of an amount of Rs.17,199/- and Rs.5,207/- for the year 2016-17 and 2017-18 respectively.

1.2 Based on above observations, three of the aforesaid amounts were proposed to be recovered vide Show Cause notice No. 02/2019-20 dated 05.06.2020. The proposal was confirmed by the original adjudicating authority on three of the counts vide Order-in-Original No.10/2021-22 dated 14.12.2021. In an appeal against the said order Commissioner (Appeals) has dropped the entire demand of excise duty as well as that of service tax. However has confirmed the order of reversal of Cenvat credit amounting to Rs.93,662/-. Department is not in appeal against the said order. However appellant being aggrieved is before this tribunal.

2. I have heard Ms. Surabhi Sinha, learned Advocate for the appellant and Shri Anuj Kumar Neeraj, learned Authorized Representative for the department.

3. Learned counsel for the appellant submitted that the present appeal is limited to the issue of availment of Cenvat credit on 2 major input services:

- (i) Technical inspection charge by BIS
- (ii) Outward Courier Services

3.1 It is submitted that both the services were used by the appellant directly or indirectly in relation to manufacture of their final product. Learned counsel has relied upon the following decisions:

- (i) Surveillance/Rectification of ISO, Technical inspection charge by BIS

- **Castrol India Limited Vs. Commissionier of Central Excise, Vapi reported as 2013 (291) ELT 469 (Tri.-Ahmd.)**
- **Commissioner of Service Tax-IV Vs. Rosy Blue (I) Ltd. reported as 2018 (12) GSTL 257 (Bom)**
- **Commissioner of C.Ex., Ahmedabad-II Vs. Cadila Healthcare Ltd. reported as 2013 (30) STR 3 (Guj)**

(ii) Outward Courier

- **Commissioner of C.Ex. & Cus,. Vapi Vs. Apar Industries Ltd. 2010 (20) STR 624 (Tri.-Ahmd.)**
- **Commissioner Vs. Apar Industries Ltd. reported as 2011 (23) STR J194 (Guj)**
- **Evonik Specialty Silica India Pvt. Ltd. Vs. Commissioner of Central Excise & Service Tax, Surat-II reported as (2024) 18 Centax 223 (Tri.-Ahmd)**

3.2 Finally it is submitted that appellat has not suppressed any relevant fact from the Department. All details were duly shown in the monthly returns. The department is alleged to have wrongly invoked the extended period of limitation. The show cause notice is alleged to be barred by time. With these submissions order under challenge is prayed to be set aside and appeal is prayed to be allowed.

4. While rebutting these submissions learned Departmental Representative appearing for the department has mentioned that the decisions as relied upon by the appellat i.e. **Castro India Ltd., Cadila Healthcare (supra) etc.** are not applicable to the

facts and circumstances of the present case. It is submitted that in both those decisions their product was such that could not be cleared without the technical testings/ investigations. Commissioner (Appeals) after examining the definition of input service given under Rule 2(I) of Cenvat Credit Rules, 2004 has confirmed the demand /reversal of Cenvat credit amounting to Rs.93,662/- along with interest. Impressing upon no infirmity in the said order, appeal is played to be dismissed.

5. Having heard both the sides and perusing the entire records, I observe and hold as follows:

5.1 It is observed that the narrow scope of present adjudication is the eligibility of the appellant to avail Cenvat credit of service tax paid with respect to technical inspection services and outward courier services. I have perused the relevant provision that is Rule 2(I) of Cenvat Credit Rules, 2004. Perusal shows that the legislature has used both the words in the said definition that is 'means' and 'includes'. Therefore the definition is exhaustive. Any services rendered directly or indirectly in the manufacture of final product and clearance thereof, the inclusive definition sets out various services and further enlarge the scope by showing that all activities relating to business constitute the input services.

5.2 No doubt the product in question is HDPE pipes which is very much different from a pharmaceutical product as was in consideration in the case of Cadila Healthcare Ltd. (supra). However, it is an admitted fact that the appellant had manufactured those pipes for a government project of water supply distribution

system of Roorkee awarded to M/s. NCC Ltd. Admittedly the project was funded by Asian Development Bank under a loan agreement between Government of India and the said bank. The scheme was to be implemented by Urban Development Department of Uttarakhand. These admissions falsify the plea of department that the services of technical inspection were not required by the appellant.

5.3 Otherwise also, irrespective of the necessity of services, once those services have been availed by the appellant before clearing its product to the government agency, the services cannot be denied to be the services availed in relation to the appellant's business. The department has not produced any evidence to show any other purpose for availment of those services. The law provides for availment of Cenvat credit of service tax paid on a service received in relation to a business. If such Cenvat credit is denied to a manufacturer qua a service received in relation to his business, it will be the manufacturer who will be burdend with additional charges on his business as it was appreciated by Hon'ble Supreme Court in the case of **All India Federation of Tax Practitioners & Ors. Vs. Union of India reported as (2007) 7 SCC 527.**

5.4 The only thing required to be examined was as to whether the services availed by the manufacturer were in relation to its manufacturing activity. Once it is an admitted case that the technical inspection services were availed by the appellant for its manufactured HDPE pipes before supplying those pipes to a

government agency, it becomes an apparent fact that the services have been used in relation to the manufacture of the final product. In draw my support from the decision of Hon'ble High Court of Gujarat in the case of **Commissioner Vs. Parth Poly Woven Pvt. Ltd.**

5.5 In the light of discussion about meaning of input services under rule 2(l) of Cenvat Credit Rules, 2004, the said service is also held to have been availed in relation to the manufacturing process/business of the appellant. Hence it is held that these were also eligible input services qua which the appellant was entitled to avail the Cenvat credit. I draw my support from the decision of Hon'bel High Court of Gujarat in the case of **Commissioner Vs. Apar Industries Ltd. reported as 2011 (23) STR J194.** With these observations, it is held that Commissioner (Appeals) though had dropped the major demand of excise duty as well as that of service tax but has committed an error while confirming the demand/reversal of Cenvat credit availed by the appellant. With these observations, the order under challenge confirming the reversal of Cenvat credit amounting to Rs.93,662/-is hereby set aside. Consequent thereto the appeal stands allowed.

[Order pronounced in the open court on **14.11.2025**]

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

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