

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Service Tax Appeal No. 50730 of 2025

[Arising out of Order-in-Appeal No. 507(GS)ST/JPR/2024 dated 23.10.2024 passed by the Commissioner of Central Excise & CGST (Appeals), Jaipur]

M/s. Larsen & Toubro Ltd.

...Appellant

1st Floor, SDC Monarch Building,
D-236 & 237, Amrapali Marg, Vaishali Nagar,
Hanuman Nagar, Jaipur - 302021

VERSUS

**Commissioner of Central Excise
and Service Tax, Jaipur**

...Respondent

NCR Building, Statue Circle,
C-Scheme, Jaipur - 302005

APPEARANCE:

Shri R. Viswanathan, Authorized Representative for the Appellant
Shri Rohit Issar, Authorized Representative for the Department

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

DATE OF HEARING: 24.11.2025

DATE OF DECISION: 24.11.2025

FINAL ORDER NO. 51823/2025

S.K. MOHANTY

Heard both sides and perused the case records.

2. Briefly stated, the facts of the case are that the appellants herein, are engaged in providing the taxable services, defined under the Finance Act, 1994. For provision of the taxable services, the appellants got themselves registered with the Jurisdictional Service Tax Authorities. During the disputed period from April 2017 to June 2017, while scrutinizing the records maintained by the appellants, the service tax department had observed that the appellants had availed Cenvat credit on the basis of invoices, which were more than one year old; contained only details of VAT charges

and those invoices were not in possession of the appellants. On the basis of such discrepancy observed by the audit wing, show cause proceedings were initiated against the appellants, seeking recovery of the Cenvat credit along with interest and for imposition of penalty. The matter arising out of the show cause notice dated 14.07.2020 was adjudicated by the original authority vide order dated 22.02.2022 in confirming the proposals made therein. The original authority in the said order had disallowed the Cenvat credit and ordered for recovery of interest under Rule 14 of Cenvat Credit Rules, 2004 and also imposed penalty under Rule 15(3) of Cenvat Credit Rules, 2004 read with Section 78 of the Finance Act, 1994. On appeal against the said adjudication order dated 22.02.2022, learned Commissioner (Appeals) vide the impugned order dated 23.10.2024 has upheld confirmation of adjudged demands on the appellants. Feeling aggrieved of the said impugned order dated 23.10.2024, the appellants have preferred this appeal before the Tribunal.

3. The appellants in the appeal memorandum has stated that they are not contesting the Cenvat demand confirmed by the department and the impugned order is in challenge, in so far as it has upheld confirmation of the interest demand and imposition of penalty. In support of such contentions, the appellants have stated that the alleged irregularly availed Cenvat credit was not utilized for payment of service tax on the taxable services and that there is no element of fraud, collusion, any willful misstatement or suppression of facts, etc., in order to invoke the provisions of sub-rule (3) of Rule 15 of Cenvat Credit Rules, 2004.

4. On perusal of the case records, more particularly the impugned order dated 23.10.2024, I find that there is no discussion with regard to utilization of wrongly availed Cenvat credit by the appellants. In so far as the statutory provisions for recovery of Cenvat credit wrongly taken is concerned, clause (ii) of sub-rule (1) of Rule 14 of the Rules, 2004 provides that where the Cenvat credit has been taken and utilized wrongly, the same shall be recovered along with interest from the provider of output service and for effecting such recoveries, the provisions of Section 73 of the Finance Act, 1994 shall apply mutatis mutandis. Since, the authorities below have not specifically recorded that the appellants had utilized the Cenvat credit availed by them, I am of the considered opinion that the provisions contained in Rule 14(1)(ii) of the Cenvat Credit Rules, 2004 shall not be invoked, especially for recovery of the interest amount. However, since the appellants volunteered from their side that they are not eligible for availment of Cenvat credit in respect of the disputed services/invoices, the same should be paid/reversed forthwith by the appellants.

5. In respect of invocation of the provisions of sub-rule (3) of Rule 15 of Cenvat Credit Rules, 2004 is concerned, I find that the involvement of the ingredients mentioned therein i.e., fraud, willful misstatement, suppression of facts etc., are absent in the present case. Further, the authorities below have not brought on any evidence in support of imposition of penalty on the appellants. Therefore, I am of the view that Penalty imposed on the appellants cannot be sustained.

6. In view of the foregoing discussions, the impugned order, to the extent it has upheld confirmation of interest and penalty demands on the appellants is set aside and the appeal to such extent is allowed in favour of the appellants. However, it is made clear that amount of Cenvat credit availed by the appellant should be paid forthwith by them in the manner prescribed under the statute.

7. In the result, the appeal is partly allowed.

[Dictated and pronounced in the open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

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