CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Excise Appeal No. 21561 of 2015
(Arising out of **Order-in-Original** No.HYD-EXCUS-001-COM-032-14-15 dated 18.03.2015 passed by Commissioner of Customs, Central Excise & Service Tax, Hyderabad)

Commissioner of Central Excise Hyderabad - I .. **APPELLANT**
Kendriya Shulk Bhavan,
L.B. Stadium Road,
Basheerbagh,
Hyderabad,
Telangana – 500 004.

VERSUS

Gloster Cables Ltd., .. **RESPONDENT**
Unit – 1, Survey No. 310/e,
Nh-7, Kallakai Village,
Toopran Mandal,
Telangana – 502 319.

APPEARANCE:
Shri K. Raji Reddy, Authorized Representative for the Appellant.
Ms. P. Rosi Reddy, Advocate for the Respondent.

CORAM: **HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)**
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30029/2026

Date of Hearing: 20.08.2025
Date of Decision: 16.01.2026

[ORDER PER: ANGAD PRASAD]

This appeal has been filed by Department against the impugned order Order-in-Original No. HYD-EXCUS-001-COM-032-14-15 dated 18.03.2015, passed by Commissioner of Customs, Central Excise & Service Tax, Hyderabad.

2. The fact, in brief, respondent M/s Gloster Cables Ltd., were manufacturing various industrial cables and clearing on payment of excise duty. The appellant also availing Cenvat Credit on inputs and input services. They had two units namely, Unit-I and Unit-II. They were also having sales

depots located across the country through which they sell their finished goods. The respondent took Cenvat Credit of Service Tax paid on services that were received by sales depots, head office and Unit-II at Kallakal village. The respondent took Cenvat Credit on services received at various places without registering as input service distributer under Rule 7 of Cenvat Credit Rules, 2004. The Show Cause Notice was issued vide OR No. 76/2014-HYD-I Adjn dated 03.09.2014 proposing to recover credit of Rs. 60,61,606/- during the period August, 2009 to August, 2012 as the said credit was not distributed through ISD registration and the procedure prescribed there under with regard to the proportion of credit to pass on basing on the turnover was not adhered to and not passing on the credit attributable credit to exempted turnover etc. Out of the said credit Rs. 9,38,768/- was taken without any invoices in addition to contravention on input service distributor.

3. The Commissioner of Central Tax, Hyderabad – I, vide Order-in-Original No. HYD-EXCUS-001-COM-032-14-15 dated 18.03.2015, dropped proposals for recovery of irregularly availed Cenvat Credit in respect of services used in Head Office/ Unit-II was not treated as a separate unit before their registration in January 2012 and held that before January 2012, there was only one unit and thus distribution of input service credit was not required. Learned Commissioner also refrained from imposing penalty on the General Manager of respondent.

4. On examination of the order by the Committee of Chief Commissioners, it was found that the order dropping the demand was not legal and proper. Thus, Department filed appeal before the Tribunal.

5. Learned AR submits that Rule 7 of Cenvat Credit Rules prescribes specific procedure for distribution of credit on input services used by Head Office/depots and units which is a mandatory requirement. One can distribute input service credit based on the turnover of the manufacturing units and that no credit can be passed on to the extent of services attributable to the exempted goods and services. Learned Commissioner ignored the restrictions and placed the respondent under Rule 7(b) of the Cenvat Credit Rules, 2004. The excise duty was exempted under Notification 214/1986 thereby goods manufactured in the Unit-II or job work unit were exempted making it ineligible for the Cenvat Credit on services.

6. Learned AR submits that Learned Commissioner observed in his order that Unit-II did not exist until November, 2011, but Unit-II existed, through not as registered unit under Central excise and engaged in job work that was under exemption Notification 214/86-CE. Merely because, the unit is not registered in central excise and engaged in the job work and does not by itself mean that the unit is not there.

7. Learned AR submits that Rule 7(b) prohibited distribution of credit to a unit exclusively engaged in exempted goods. The Cenvat Credit on services attributable to Unit-II, manufacturing exempted goods, was taken by the assessee which was otherwise ineligible credit. The said credit attributable to exempted goods in Unit-II would not be available for any distribution under Rule 7 of Cenvat Credit Rules, 2004.

8. Learned AR submits that the Commissioner wrongly held extended period is not invocable due to earlier audit and earlier Show Cause Notice. Audit does not bar invocation of extended period. The Adjudicating Authority wrongly relied on earlier Show Cause Notice No. 92/2013 CN that notice

pertained only to manpower / security services and not the on the same issue. This office could not get the copy of the said notice. The respondent failed to disclose credit availed in ER-1 returns of only detected during verification. Hence, suppression with intent to evade established.

9. Learned AR submits that Shri J. Hariprasad, General Manager of the respondent company in his statement dated 23.06.2014, admitted wrongly availment of credit admissible in evidence. Hence, penalty ought to have been imposed on General Manager.

10. Respondent has filed cross-objection no. 30339/2016 on 08.02.2016 and accepted that he was received notice on 25.07.2015. Therefore, cross-objection has been filed after 45 days. It is also important that the impuged order or any part of impugned order is not against of the respondent. In view of these facts, cross-objection is not permissible in law, yet it will be treated as reply of memorandum of appeal.

11. Learned Counsel for the respondent submits that the provisions of Rule 7 of Cenvat Credit Rules, 2004 prior to 01.04.2012, stipulated that distribution of credit is required if the manufacturer is having more than one manufacturing unit and in that case only the manufacturer is required to register as input service distributor to distribute credit and not otherwise. The respondent followed job work procedure as per Notification No.214/1986-CE dated 25.03.1986 and there is no allegation that the respondent has not followed the procedure set out as per the said notification.

12. The job worker notification is not issued under Section 5A of the Central Excise Act, 1944, as claimed by the appellant, but issued under sub-rule (1) of rule 8 of the Central Excise Rules, 1944. The respondent never

cleared goods without payment of duty and there is no exemption for the goods manufactured. The Department placed no evidence that respondent manufactured exempted goods and cleared goods under NIL rate. As per job work notification the duty liability rests on principle manufacturer and not on job worker. Here both are same and being a job worker, the ultimate liability of excise duty is allowed to be discharged by principle manufacturer under law, granting exemption to job worker.

13. Learned Counsel for the respondent also submits that condition (b) of Rule 7 of Cenvat Credit Rules is not applicable since the goods manufactured are not exempted and there is no allegation in the Show Cause Notice that the respondent manufactured exempted goods are cleared goods under NIL rate of duty.

14. Learned Counsel for the appellant submits that denial of Service Tax benefit of Cenvat Credit for hyper-technical procedural violation was not justified and said provision cannot be pressed in to service to deny the otherwise available to Cenvat Credit of CBEC Circular No. 1063/2/2018-CX dated 16.02.2018 accepted the order of Supreme Courts, High Courts and CESTAT holding that substantial benefit cannot be denied because of procedural irregularity.

15. Learned Counsel for the respondent submits that definition of 'input service' has not barred the services used the outside the assessee's premises.

16. Learned Counsel for the respondent submitted regarding suppression of facts that on the same issue ineligibility of input service tax credit availed in Unit-II, Show Cause Notices O.R No. 76/2014-Hyd-1 Adjn dated 03.09.2014 and O.R No. 92/2013-Hyd – 1 Adjn dated 06.11.2013. The

appellant in the grounds of appeal para E stated that in the said notices, the usage of credit pertaining to manpower and security service used in Unit-II was under examination and legal issue in the instant appeal is also same i.e., ineligibility of common services used at Unit-II i.e., whether availment of Cenvat Credit in Unit-I on various input services viz. Manpower supply (Labour contract) and Security services which are utilized in Unit II of the same manufacturer is in order/ permissible. The replies pertaining to provisions Show Cause Notice are available on the systems and all the invoices are in the name of Gloster Cables Ltd., and not otherwise.

17. Heard Learned Representative of the Department Shri K. Raji Reddy and Learned Counsel for the appellant Ms. P. Rosi Reddy and perused the records with their submissions.

18. Rule 7 of Cenvat Credit Rules, 2004 prescribes procedure for distribution of credit on input services used by Head office / depots and units. Cenvat Credit on input service may be based on the turnover of the manufacturing units. Department's allegation that respondent taken credit on exempted goods and services. Respondent stated that Unit-II was exclusively doing job work for Unit-I up to November, 2011, without any other manufacturing activity on its own and entire credit was taken at unit-I at the relevant period. All the input services mentioned in the impugned invoices were used in or in relation to the manufacture of final products on which Central Excise duty was paid. Averment of Department that the entire Cenvat Credit availed pertains to the services utilized in Unit-II are not correct. In the impugned order, it is mentioned that 729 invoices were in the name of head office, Registered office and depots and 9 other invoices on the Unit-II when Learned Commissioner observed that 9 invoices which was on address of Unit-II, demand was barred by limitation and in which credit

has been taken, the services are used directly or indirectly for manufacturing of their dutiable goods, Unit-II was related to Job work for Unit-I. Input services are used by manufacturer in relation to manufacture of final product i.e., cables. The services utilized in unit-II is paid by the manufacturer i.e., registered office. Unit-II has no independence existence and it is an extension of unit-I and some part of job work activity takes place as observed by Learned Commissioner. Therefore, no any ambiguity in the impugned order relating units.

19. Hon'ble Gujarat High Court in the case of Commissioner of Central Excise Vs Dashion Ltd., [2016 (41) S.T.R. 884 (Guj.)] held that Nothing in statutory rules to disentitle an unregistered input services distributor from availing Cenvat Credit. The relevant para is as follow:

> "7. The second objection of the Revenue as noted was with respect of non-registration of the unit as input service distributor. It is true that the Government had framed Rules of 2005 for registration of input service distributors, who would have to make application to the jurisdictional Superintendent of Central Excise in terms of Rule 3 thereof. Sub-rule (2) of Rule 3 further required any provider of taxable service whose aggregate value of taxable service exceeds certain limit to make an application for registration within the time prescribed. However, there is nothing in the said Rules of 2005 or in the Rules of 2004 which would automatically and with any additional reasons disentitle an input service distributor from availing Cenvat Credit unless and until such registration was applied and granted. It was in this background that the Tribunal viewed the requirement as curable. Particularly when it was found that full records were maintained and the irregularity, if at all, was procedural and when it was further found that the records were available for the Revenue to verify the correctness, the Tribunal, in our opinion, rightly did not disentitle the assessee from the entire Cenvat Credit availed for payment of duty. Question No. 1 therefore, shall have to be answered in favour of the respondent and against the assessee."

20. There is no any allegation that input services are not used in or in relation to the manufacture of final goods.

21. Even, CBEC issued Circular No. 1063/2/2018-CX dated 16.02.2018 accepted the order of Supreme Court, High Courts and CESTAT holding that substantial benefit cannot be denied because of procedural irregularity and

non registration of ISD is only a procedural irregularity for which substantial benefit of Cenvat Credit cannot be denied when all the necessary records have been maintained by the respondent.

22. Department submits that the Commissioner wrongly relied on earlier Show Cause Notice No. 92/2013CN. That notice pertained only to manpower/security services and not on the same issue of distributing the credit through input services.

23. Learned Commissioner has discussed the earlier Show Cause Notice and mentioned that "M/s Gloster Cables Ltd., are having two units i.e., Unit-I situated at survey No. 310/E and Unit-II situated at Survey No. 293 in Kallakal Village, Toopran Mandal, Medak District, Telangana. During audit, it was noticed that during the period from April, 2011 to March, 2012, Unit-I has availed Cenvat Credit on 'Manpower Recruitment Agency Service' and 'Security Service', which were actually received in Unit-II. The Unit-II was doing job work for Unit-I up to November, 2011 and started their own production activity from December, 2011 onwards". Therefore, Department was fully aware of the activities of the respondent.

24. All the records were produced to the audit parties during the earlier audits and they were thoroughly audited and certified. Therefore, it is not a case of suppression, willful mis-statement. In these situations extended period was not invocable.

25. Learned AR submits that penalty should be imposed against the General Manager. It is settled law that when the company is not liable, personal penalties on the employees of the company cannot be imposed.

26. In view of the above discussion there is no any illegality or irregularity

in the impugned order. Therefore, appeal is liable to be dismissed.

27. Appeal dismissed.

(Pronounced in the open court on 16.01.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

Shirisha