IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 75557 of 2016

(Arising out of Order-in-Original No. 48-50/Commr/DGP/15-16 dated 27.01.2016 passed by the Customs, Central Excise & Service Tax Commissionerate, Durgapur Satyajit Ray Sarani, City Centre, Durgapur-713216)

M/s. Ultra Tech Cement Ltd., **: Appellant**
Banskopa Rajbandh, Kolkata-713212

VERSUS

Commissioner of Central Excise Service Tax & Customs, Durgapur Commissionerate **: Respondent**
Satyajit Ray Sarani, City Centre,
Durgapur-713216

WITH

Excise Appeal No. 75744 of 2018

(Arising out of Order-in-Original No. 16/Commr/Bol/2017-18 dated 22.11.2017 passed by the Central Goods & Service Tax Commissionerate Bolpur Nanoor Chandidas Road, Sian, Bolpur, Dist-Birbhum W.B.-731204)

M/s. Ultra Tech Cement Ltd., **: Appellant**
West Bengal Works Near
E.P.I.P., Village-Banskopa,
P.O.-Rajbandh, Durgapur,
Dist. West Burdwan, W.B. 713 212

VERSUS

Commissioner of Central Goods Service Tax & Bolpur **: Respondent**
Nanoor Chandidas Road, Sian,
Bolpur, Dist-Birbhum W.B.-731204

AND

Excise Appeal No. 79517 of 2018

(Arising out of Order-in-Original No. 47/Commr/Bol/2017-18 dated 22.11.2017 passed by the Central Goods & Service Tax Commissionerate Bolpur Nanoor Chandidas Road, Sian, Bolpur, Dist-Birbhum W.B.-731204)

M/s. Ultra Tech Cement Ltd., **: Appellant**
West Bengal Works Near
E.P.I.P., Village-Banskopa,
P.O.-Rajbandh, Durgapur,
Dist. West Burdwan, W.B. 713 212

VERSUS

Commissioner of Central Goods Service Tax & Bolpur **: Respondent**
Nanoor Chandidas Road, Sian,
Bolpur, Dist-Birbhum W.B.-731204

APPEARANCE:

Shri Deepro Sen, Advocate
Shri Vasudev A., Advocate for the Appellants

Shri Rajib Ranjan, Special Counsel (E/75557/2016)
Shri D. Sue, Authorized Representative for the Respondents(E/75744,79517/2018)

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NOs.76460-76462/2025

DATE OF HEARING / DECISION: 04.06.2025

Order: [PER SHRI ASHOK JINDAL]

In all these appeals, the issue is common and therefore, all are disposed of by a common order.

2. The facts of the case are that the appellant is a manufacturer of Portland Pozzolana Cement and registered with the Central Excise Department, paying duty on clearance of cement, in cash and by utilization of CENVAT Credit Account. The appellant-company has a Head Office, a Central Marketing Office and an East Zonal Marketing Office in India, for which registration as Input Service Distributor (ISD) was obtained under Rule 2(m) of the CENVAT Credit Rules, 2004.

3. The Head Office and Central Marketing Office were common to all units of the appellant-company located in India, whereas the East Zonal Marketing Office was directly related to a few units located in the Eastern Zone of India. Being registered as ISDs, all such offices distributed the credit to the concerned units of the appellant-company in

accordance with the applicable Rules of the CENVAT Credit Rules, 2004.

4. While distributing the credit, the ISDs did not distribute the CENVAT Credit by issuing one challan / ISD invoice corresponding to each input service invoice. Instead, the ISDs issued one challan to distribute the credit to various common input service invoices, by reflecting the required details as per Rule 4(A)(2) of the Service Tax Rules, 1994.

5. During the course of scrutiny, the Revenue observed that the appellant had availed CENVAT Credit of various input services based on such ISD challans and a view was adopted by the Revenue that the appellant had incorrectly availed CENVAT Credit based on such ISD challans since such challans were not valid documents as per Rule 9(1) of the CENVAT Credit Rules, 2004 read with Rule 4(A)(2) of the Service Tax Rules, 1994.

6. Therefore, the impugned Show Cause Notices were issued and CENVAT Credit was denied by way of adjudication and vide the impugned orders, sought recovery thereof, along with interest, and penalties were also imposed, holding that the ISD challans cumulatively distributed CENVAT Credit of Service Tax charged by various service providers under various invoices by preparing a general annexure to the ISD challans rather than distributing the credit for each input service invoice vide a separate ISD challan. It has been alleged that the ISD challans did not contain the required information as prescribed under Rule 4(A)(2) of the Service Tax Rules, 1994.

6.1. Against those orders, the appellant is in appeal.

7. The Ld. Counsel appearing on behalf of the appellant submits that the issue is no longer res integra as the same has been settled in favour of the appellant in their own case vide Final Order No. 75470 of 2025 dated 10.02.2025. Therefore, he prays that the impugned orders be set aside.

8. On the other hand, the Ld. Special Counsel appearing on behalf of the Revenue supported the impugned orders, but agreed that the issue has been settled, in favour of the appellant.

9. Heard the parties and considered their submissions.

10. We find that the said issue had come up before this Tribunal in the appellant's own case in Excise Appeal No. 76605 of 2017 vide Final Order No. 75470 of 2025 dated 10.02.2025, wherein this Tribunal observed as under: -

> *"7. We have find that short issue involved in the matter is that whether the appellant is eligible to avail Cenvat Credit on the basis of ISD challans where ISD distribute the credit of more than one common input services invoiced by issuing a single challan rather than issuing one challan for distributing credit for each common input service or not. The said issue has been examined in the case of Art Infra Solutions Pvt. Ltd. v. CCE & ST, Lucknow, 2018 (363) ELT 1143 wherein this Tribunal observed as under:*
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> *"8. The Ld. Counsel for the appellant states that so far Entry No. 287, dated 30.09.2009 is concerned, the same was also taken for consideration by the*

Revenue is subsequent show cause notice dated 24th August, 2012 being SCN No. 49/ADC/LKO/2012-13 for the period 2007-08 to 2011-12 wherein in Para-3 in the table, the same amount for the period 200910, Rs. 1,40,395.57/- was taken for proposed disallowance. This amount was finally allowed fully as credit vide Order-in-Appeal No. 92/CE/LKO/2014, dated 14th August, 2014, whereby the Learned Commissioner (Appeals), Lucknow, after examining the facts and law, observed that the findings of the Adjudicating Authority, that "Except the Registration No. of ISD, none of the details are available on the invoices" that the Annexure t othe invoice had escaped the attention of the adjudicator. He has not taken the Annexure to Invoice No. 002, dated 31.3.2012 and there do not appear to be any impropriety in annexing the details, if it was not possible to incorporate the details in a single page. Either the invoice can run into many pages or details may be provided in a separate page and annexed to the invoice. Further, I observe that no specific Performa of the invoice have been notified or prescribed under Rule 4A(2) of S.T.R. but the requirement of the said Rule is that the invoice should contain the details as mentioned therein. Further, I observe that in view of the rulings of Superior Courts, Cenvat Credit cannot be denied on technical grounds. It was also observed that there is no objection at the end of ISD, and the ISD is also registered under the Service Tax and filing returns. Accordingly, held that the Cenvat Credit availed was proper and admissible in respect of banking and other financial services.

9. In view of the findings of the Ld. Commissioner (Appeals) noticed hereinabove, there are no further disputes for consideration before this Tribunal. Accordingly, this appeal stands allowed for

> *statistical purposes, in favour of the appellant. The appellant shall be entitled to consequential benefits in accordance with law. The impugned order is set aside to the extent that Cenvat Credit was denied to the appellant. The penalty imposed and retained also stands deleted. "*
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> *8. We further take note on the fact the ISD Challan on the basis of which appellant has the credit having all the details for availment of Cenvat Credit. Further if at all there is a discrepancy in the invoice issued by the ISD, the proceedings were required to be initiated against the ISD first and thereafter to deny Cenvat Credit to the appellant. But, no proceedings have been initiated against the ISD distributor of the Cenvat Credit. In that circumstances, Cenvat Credit cannot be denied to the appellants.*
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> *9. In the facts and circumstances of the case no penalty is imposable.*
>
> *10. In view of this we do not find any merit in the impugned order. The same is set aside.*
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> *11. In result appeal is allowed with consequential relief, if any.*

10.1. As the issue has already been settled by this Tribunal in the appellant's own case for another period, and it is an admitted fact that the appellant had availed CENVAT Credit on the basis of challans issued by the ISD and at the end of the ISD, distribution of CENVAT Credit to the appellant has not been disputed, in these circumstances, we hold that CENVAT Credit cannot be denied to the appellant.

11. In these terms, we do not find any merits in the impugned orders. The same are set aside by

holding that the appellant has correctly availed CENVAT Credit on the basis of ISD challans issued by the ISD.

12. In the result, the appeals are allowed, with consequential relief, if any, as per law.

(Operative part of Order was pronounced in Open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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