

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Service Tax Appeal No. 76043 of 2024**

(Arising out of Order-in-Appeal No.058/ST-KOL/ST/KOL-S/2024-25 dated 30.04.2024 passed by Commissioner of Central GST & Central Excise, Kolkata)

M/s. FPN Engineering (P) Ltd., : **Appellant**
238B, A.J.C Bose Road, 5th Floor, Kolakta-700020.

VERSUS

Commissioner of CGST & CX, Kolkata : **Respondent**
180, Shantipally, Rajdanga Main Road, Kolkata-700107.

APPEARANCE:

Shri S.P.Siddhanta, Consultant for the Appellant

Ms. Suman, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO. 77447/ 2025

DATE OF HEARING :15.09.2025

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Order : [Per Shri Ashok Jindal]

The appellant is in appeal against the impugned order wherein demand @7% of the exempted service provided by the appellant has been confirmed against the appellant in terms of Rule 6(3) of the Cenvat Credit Rules, 2004.

2. The facts of the case are that appellant is providing service of warehousing. Some services regarding warehousing are taxable and cold storage of agricultural produce the services exempted. But appellant is not maintaining separate account of input services received by the appellant for providing taxable as well as exempted service namely security service, telephone service and auditor service. On the basis of audit, it was found that as the appellant

is providing taxable as well as exempted service and not maintaining separate account of input service used for providing taxable as well as exempted service therefore, in terms of Rule 6(3) of the appellant is required to pay 7% of the value of exempted service. Therefore, a Show Cause Notice dated 16.10.2020 was issued to the appellant. The appellant on receipt of the Show Cause Notice reverse the proportionate Cenvat Credit attributable to exempted service but the Adjudicating Authority confirmed the demand holding that appellant has not given option prior to reversal therefore, they are liable to pay an amount of 7% of the exempted service as Service Tax.

3. Against the said order appellant is before me.

4. The Ld. Consultant appearing on behalf of the appellant submits that as appellant has already reverse the proportionate Cenvat Credit before adjudication. Therefore, no demand is sustainable against the appellant.

5. On the other hand Ld. Authorized Representative supported the impugned order and submitted that the appellant has violated the provision of Rule 6(3) of Cenvat Credit Rules, 2004 therefore, appellant is liable to pay 7% of the value of exempted service as Service Tax.

6. Heard the parties. Considered the submissions.

7. I find that it is a fact on record that appellant has already reversed the proportionate Cenvat Credit attributable to exempted final service. In that circumstances, no demand for violation of Rule 6(3) of Cenvat Credit, 2004 is sustainable against the

appellant. Accordingly, the impugned demand confirmed in the impugned order is set aside.

8. In result, the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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