

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

REGIONAL BENCH – COURT NO. 1

**Excise Appeal No. 76651 of 2018**

(Arising out of Order-in-Original No. 21/Commr.Audit/CEX/BBSR/2017-18 dated 25.01.2018 passed by the Commissioner (Audit), G.S.T. and Central Excise, Bhubaneswar-I, Central Revenue Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha)

**M/s. Vedanta Limited**

**: Appellant**

[Formerly 'M/s. SESA Sterlite Limited']  
Vill.: Jagannath, P.O.: Lanjigarh,  
District: Kalahandi (Odisha), PIN – 766 027

**VERSUS**

**Commissioner (Audit), G.S.T. and Central Excise, : Respondent**

Central Revenue Building, Rajaswa Vihar,  
Bhubaneswar (Odisha), PIN – 751 007

**APPEARANCE:**

Shri Rahul Tangri and Ms. Payal Bharwani, both Advocates,  
For the Appellant

Ms. Suman, Authorized Representative,  
For the Respondent

**CORAM:**

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

**FINAL ORDER NO. 77901 / 2025**

DATE OF HEARING / DECISION: 04.12.2025

**ORDER: [PER SHRI K. ANPAZHAKAN]**

M/s. Vedanta Limited (hereinafter referred to as the 'appellant') is engaged in manufacturing of aluminium products falling under Chapter 76 of the First Schedule to the Central Excise Tariff Act, 1985. In addition, during the underlying period, the appellant was also engaged in providing various taxable output services. In order to undertake the manufacturing activity and provide such output services, the appellant received various inputs, capital goods and input services, and the appellant availed the CENVAT Credit of duties and taxes paid thereon in

accordance with the CENVAT Credit Rules, 2004 ['CCR, 2004'] and duly reflected such availment in the books of accounts as well as the periodic excise returns filed during the underlying period.

1.1. The issue in the present appeal is related to availment of CENVAT credit by the appellant on input services such as construction, outdoor catering, repairs and maintenance and travel agency services. An Audit was conducted on the records of the appellant for the FY 2011-12, wherein the auditors were of the view that the CENVAT Credit availed by the appellant on the above said input services was irregular inasmuch on the ground that such services did not fall within the scope of the term 'input services' as defined under Rule 2(l) of the CCR, 2004. Thereafter, the appellant was also subjected to EA-2000 audit for the period from September 2009 to March 2014.

1.2. On the basis of the audit observations, a Show Cause Notice bearing number V(28)15/Adjn./B-1/Cenvat/64/2013/23894-A dated 30.09.2014, was issued to the appellant proposing to deny the CENVAT Credit availed by the appellant on the said input services during the impugned period. The Notice also demanded interest and proposed imposition of equivalent penalty.

1.3. After due process, the notice was adjudicated by way of the Order-in-Original No. 21/Commr.Audit/CEX/BBSR/2017-18 dated 25.01.2018 (hereinafter referred to as the 'impugned order') whereby the demands raised in the Notice have been confirmed, along with interest and penalty equivalent to the credit disallowed has also been imposed.

1.4. Aggrieved by the denial of the credit, along with interest and imposition of penalty, the appellant has filed this appeal.

2. During the course of hearing, the appellant submitted that the credit of Rs. 60,26,393/- was disallowed in respect of service tax paid on Civil construction work. It is stated that such services were received prior to 31.03.2011 i.e., prior to the amendment in the definition of the term 'input services'; further, all the invoices in relation to such input services were issued prior to 31.03.2011. Hence, the appellant contends that denial of credit on civil construction work received prior to 31.03.2011 is legally not sustainable and that this is in accordance with Circular No. 943/4/2011-CX dated 29.04.2011 which clarified that CENVAT Credit is available on such services, if its provision had been completed before 01.04.2011. In support of this view, the appellant also relied on the decision of CESTAT, Mumbai pronounced in case of *ISMT Ltd. v. Commissioner of C.Ex., Aurangabad [2015 (37) S.T.R. 148 (Tri. - Mumbai)]*, wherein CENVAT Credit availed on civil construction services received prior to 31.03.2011 has been allowed.

3. Regarding denial of credit of Rs. 37,61,486/- pertaining to maintenance of grid outside the plant, the appellant submits that Maintenance of 33KV transmission line is essential to facilitate continuous supply of electricity for aluminium refining operations; such activities bear a direct nexus with the manufacturing activity and hence, the CENVAT Credit of service tax paid on such input services should be allowed to them. In support of this argument, the appellant places reliance on the following judgments

wherein the CENVAT Credit on input s/ capital goods / input services used in the erection/ commissioning / installation of transmission lines both within and outside the factory has been allowed:

- a. *The Dhamra Port Co. Ltd. v. CCE, Cus. & ST, Bhubaneswar [2025 (2) TMI 559 - CESTAT Kolkata]*
- b. *HJI Division of Orient Paper Mills v. CCE, Bhopal [2017 (6) TMI 106 – CESTAT New Delhi]*
- c. *Prism Cement Ltd. Versus C.C.E. & S.T. Bhopal [2017 (3) TMI 1283 - CESTAT New Delhi]*

3.1. Accordingly, the appellant submits that CENVAT Credit of service tax paid for maintenance of grid outside the plant is admissible.

4. Regarding the credit of Rs. 10,90,445/- availed on service tax paid for maintenance of railway track, it is the appellant's submission that they have a railway track for transportation of inputs, raw materials to the factory, as well as outward transportation of finished goods. It is pointed out that vide letter dated 08.10.2008, they have duly declared to the Deputy Commissioner of Central Excise, Rayagada Division, that such railway forms part of the plant premises; such railway track has been held to be capital goods, in the nature of material handling system, by the Hon'ble Supreme Court in the case of *Jayaswal Neco Ltd. v. Commissioner of C.Ex., Raipur [2015 (319) E.L.T. 247 (S.C.)]*. In view of this, the appellant's plea is that they are eligible to avail the CENVAT Credit in respect of service tax paid in the maintenance of railway track.

5. Regarding CENVAT Credit of Rs.8,71,176/- availed on Township maintenance , CENVAT Credit of Rs. 4,76,031/- availed on Travel Agency Service and CENVAT Credit of Rs.3,91,408/-availed on interior decoration service, the appellant submitted that all these services were used in relation to their manufacturing activities and hence they are eligible for the credit availed.

6. As regards the CENVAT Credit of Rs. 1,43,400/- availed by them on outdoor catering services, it is their contention that such services were received prior to 31.03.2011 i.e., prior to the amendment in the definition of the term 'input services' and hence, the denial of credit on the outdoor catering service received prior to 31.03.2011 is legally not sustainable.

7. The Ld. Authorized Representative of the Revenue appearing before us reiterated the findings in the impugned order.

8. Heard both sides and perused the appeal records.

9. In the present case, CENVAT Credit availed by the appellant on input services such as civil construction, repair and maintenance of plant, railway track and township and outdoor catering services have been denied on the ground that such services were not used in relation to the business of manufacture and hence not covered under the inclusive part of the definition of 'input services'. The stand of the appellant is that such underlying input services like construction, outdoor catering were specifically excluded from the definition of the term 'input services' only w.e.f. 01.04.2011. In the present case, they received the said services prior to

01.04.2011 and hence they argue that they are eligible for the credit of such input services. In respect of other input services such as services of repair, maintenance and renovation of factory/ office/ township and services of travel agency services, the submission of the appellant is that they are eligible for the credit as the said services were used in relation to manufacture of their finished goods.

10. We find that credit of Rs.60,26,393/- has been disallowed in respect of service tax paid on Civil construction work. In this regard, we find that such services were received by the appellant prior to 31.03.2011 i.e., prior to the amendment in the definition of the term 'input services'. We also find that all the invoices in relation to such input services were issued prior to 31.03.2011. Thus, we are of the view that the denial of credit on civil construction work received prior to 31.03.2011 is not legally sustainable. We find that this view is supported by the Board **Circular No. 943/4/2011-CX dated 29.04.2011** which clarified that CENVAT credit is available on such services, if its provision had been completed before 01.04.2011.

10.1. In support of the above view, we also refer to the decision of CESTAT, Mumbai pronounced in case of ***ISMT Ltd. v. Commissioner of C.Ex., Aurangabad [2015 (37) S.T.R. 148 (Tri. - Mumbai)]***, wherein CENVAT credit availed on civil construction services received prior to 31.03.2011 was allowed by the Tribunal. The relevant portion of the said decision is reproduced below for ready reference:

*"4. Having considered the rival submissions, I find that in view of the clarifications issued by the*

*aforementioned Circular and in view of the fact that services had been rendered and billed prior to 1-4-2011 for which payment has also been paid prior to 1-4-2011. Such input Service Tax credit is allowable and otherwise also as clarified vide the above mentioned Circular. It is also held that the construction activity in the present case supports manufacture both directly and indirectly. Thus, the appeal is allowed with consequential relief, if any. Stay application also stands disposed of."*

10.2. We also find that similar views have also been taken by the Tribunal in the following cases: -

- a. *Navin Fluorine International Ltd. Versus CCE, Indore [2019 (370) E.L.T. 724 (Tri. - Del.)]*
- b. *Regency Park Property Management Services P. Ltd. v. Commr. of ST, Delhi [2020 (41) G.S.T.L. 372 (Tri. - Del.)]*

10.3. Even otherwise, it may be relevant to note that the said services are not covered under the exclusion clause of the definition of 'input services' post 01.04.2011, since the said services received are used in relation to the repair/maintenance of factory and erection of plant and machinery.

10.4. Thus, we hold that the disallowance of credit in respect of service tax paid on Civil construction work for the period prior to 01.04.2011 is legally not sustainable and hence, we set aside the same.

11. Regarding disallowance of credit of Rs. 37,61,486/- in respect of service tax paid on maintenance of grid outside the plant, we find that the appellant has been Maintaining 33KV transmission line to facilitate continuous supply of electricity for aluminium refining operations. We find that such continuous power supply is essential for running the

plant and thus, it is clear to us that the said service is having a direct nexus with the manufacturing activity. Accordingly, we hold that the CENVAT Credit of service tax paid on such input services should be allowed.

11.1. In this context, we rely on the ratio laid down in the following judgments wherein the Cenvat credit on inputs/ capital goods/ input services used in the erection/ commissioning/ installation of transmission lines both within and outside the factory has been allowed:

- a. *The Dhamra Port Co. Ltd. v. CCE, Cus. & ST, Bhubaneswar [2025 (2) TMI 559 - CESTAT Kolkata]*
- b. *HJI Division of Orient Paper Mills v. CCE, Bhopal [2017 (6) TMI 106 - CESTAT New Delhi]*
- c. *Prism Cement Ltd. Versus C.C.E. & S.T. Bhopal [2017 (3) TMI 1283 - CESTAT New Delhi]*

11.2. Thus, in view of the above discussion and by relying on the decisions cited supra, we hold that the appellant is eligible for the CENVAT Credit on service tax paid for maintenance of grid outside the plant. Accordingly, we set aside the disallowance of credit in the impugned order in respect of the said input services.

12. Regarding disallowance of credit of Rs.10,90,445/-availed by the appellant with respect to maintenance of railway track, it is observed that the appellant has been using the said railway track for transportation of inputs, raw materials to the factory, as well as outward transportation of finished goods. We find that the appellant has communicated this fact to the Deputy Commissioner of Central Excise, Rayagada Division, vide letter dated 08.10.2008,

wherein they have declared the said railway track as part of the plant and machinery.

12.1. We also find that such railway track has been held to be capital goods, in the nature of material handling system, by the Hon'ble Supreme Court in the case of **Jayaswal Neco Ltd. v. Commissioner of C.Ex., Raipur [2015 (319) E.L.T. 247 (S.C.)]**. Thus, by relying on the decision of the Hon'ble Apex Court cited supra, we hold that the appellant is eligible to avail the CENVAT Credit in respect of service tax paid in the maintenance of railway track. Therefore, we set aside the disallowance of credit in the impugned order in this regard.

13. Regarding CENVAT Credit of Rs.8,71,176/- availed on Township maintenance, CENVAT Credit of Rs.4,76,031/- availed on Travel Agency Service and CENVAT Credit of Rs.3,91,408/-availed on interior decoration service, we find that all these services were used in relation to their manufacturing activities. Thus, we agree with the submission of the appellant that the aforesaid services qualify as eligible 'input services' as defined under Rule 2(I) of the CENVAT Credit Rules, 2004. Hence, we hold that the appellant is eligible for the credit availed on the said input services. Consequently, we set aside the disallowance of credit in the impugned order in respect of the said input services..

14. Regarding disallowance of CENVAT Credit of Rs.1,43,400/- availed on outdoor catering services, we find that the appellant has received the said services prior to 31.03.2011 i.e., prior to the amendment in the definition of the term 'input services. We also find that Board has clarified the issue vide Circular No. 943/4/2011-CX dated

29.04.2011, wherein it has been clarified that CENVAT Credit is available on such services, if its provision had been completed before 01.04.2011.

14.1. We also find that CENVAT Credit on outdoor catering service has been allowed by the Hon'ble High Courts and Tribunals in various decisions. We find that the ratio laid down in the following decisions are relevant to the facts of the present case:-

- a. *Hindustan Coca Cola Beverages Pvt. Ltd. v. CCE &CGST, BBSR [2019 (9) TMI 747 – CESTAT, Kolkata]*
- b. *Tata Motors Ltd. v. CCE & ST, Jamshedpur [2024 (2) TMI 370 – CESTAT, Kolkata]*
- c. *Hindustan Coca Cola Beverages Pvt. Ltd. v. CCE & ST, Meerut-II [2015 (38) S.T.R. 855 (Tri. - Del.)]*
- d. *Ahresty India Pvt. Ltd. v. Commr. of CGST Tax, Faridabad [2025 (2) TMI 551 – CESTAT, Chandigarh]*
- e. *Mahindra Ugine Steel Co. Ltd. v. CCE & ST, Raigad [2023 (3) TMI 1435 – CESTAT, Mumbai]*

14.2. Thus, by relying on the decisions cited supra, we hold that the denial of credit on outdoor catering service for the period prior to 01.04.2011, is legally not sustainable and hence we set aside the same.

15. In the present case, we find that the appellant has disclosed the fact of availment of CENVAT Credit in the periodic returns filed by them for the underlying period. Further, such information regarding service category-wise availment for each of the financial year of the underlying period was also furnished at the time of audit. Thus, we agree with the submission of the appellant that they have not suppressed any information from the Department. Accordingly, we

hold that extended period of limitation cannot be invoked to disallow the credit availed by the appellant. For the same reasons, we hold that no penalty is imposable on the appellant. Even otherwise, in view of the above discussions, it has been held that the appellant is eligible for the CENVAT credit availed by them, on merit, and therefore we do not find any justifiable reasons for imposition of penalty on the appellant. Thus, in view of the above discussions, we hold that no penalty imposable on the appellant and the penalty imposed on the appellant in the impugned order stands set aside.

16. In the result, we set aside the impugned order and allow the appeal filed by the appellant, with consequential relief, if any, as per law.

(Operative part of the order was pronounced in open court)

Sd/-

**(ASHOK JINDAL)**  
MEMBER (JUDICIAL)

Sd/-

**(K. ANPAZHAKAN)**  
MEMBER (TECHNICAL)

Sdd