

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL, WEST ZONAL BENCH AT MUMBAI**

REGIONAL BENCH - COURT NO. 02

**Excise Appeal No. 1798 of 2010**

(Arising out of Order-in-Original No. 06/Commr (KAP)LTU/2010 dated 20.07.2010 passed by Commissioner of C.Ex. & S.T. Tax LTU, Mumbai)

**M/s Lupin Ltd.**

159, CST Road, Kalina, Santacruz (East),  
Mumbai - 400 098.

**.....Appellant**

*VERSUS*

**Commissioner of C.Ex. & S.T.  
(LTU), Mumbai**

29<sup>th</sup> floor, Centre-I, World Trade Centre, Cuffe Parade,  
Mumbai-400 005

**.....Respondent**

**Appearance:**

Ms. Padmavati Patil, Advocate for the Appellant  
Shri Sanjay Hasija, Authorized Representative for the Respondent

**CORAM:**

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

**HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)**

**FINAL ORDER NO. A/88546/2018**

Date of Hearing: 11.12.2018  
Date of Decision: 11.12.2018

**Per: S.K. MOHANTY**

This appeal is directed against the impugned order dated 20.07.2010 passed by the Commissioner of Central Excise and Service Tax, LTU, Mumbai.

2. Briefly stated, the facts of the case are that the appellant herein, is engaged in the manufacture of bulk drugs, falling

under Chapter 29 of Central Excise Tariff Act, 1985. The corporate office of the appellant is situated at Mumbai and manufacturing units are located at various other places including Tarapur. The corporate office of the appellant is registered as "input service distributor" and availed Cenvat Credit of service tax paid on various taxable services received by it. The credit so taken in the corporate office is distributed among the manufacturing units depending on their requirements. During the disputed period between December 2006 and June 2007, the appellant herein had availed Cenvat Credit in respect of 10 numbers of invoices, which was disputed by the department on the ground that the service tax credit distributed by the "input service distributor" to the Tarapur unit does not pertain to the services used in the said unit. Further, the department also contended that the appellant did not maintain proper accounts to show that the input services were meant for manufacturing dutiable as well as exempted products. The show cause notice issued by the department was adjudicated vide the impugned order dated 20.07.2010, wherein Cenvat Credit taken by the appellant was disallowed and the appellant was directed to pay interest thereon. Besides, the adjudication order also imposed penalty on the appellant under sub-rule (3) of Rule 15 of the Cenvat Credit Rules, 2004.

3. Heard both sides and perused the records.

4. Rule 7 *ibid* provides the manner of distribution of credit by the input service distributor. It has been mandated that the input service distributor may distribute the Cenvat Credit in respect of the service tax paid on the input services to its manufacturing units or units providing output service. Certain conditions itemized in the said Rule are that the distribution of credit under a document should not exceed the amount of service tax paid thereon and that service tax shall not be distributed to unit, exclusively engaged in the manufacture of exempted goods or providing exempted services. In the present

case, the facts are not under dispute that the appellant's corporate office was registered with the department under the category of "input service distributor" and that the credit distributed to the appellant under the cover of documents prescribed under Rule 9 has been taken as Cenvat Credit by the appellant. Since, there was no embargo or stipulation contained in Rule 7 *ibid* at the material time that the services should be used in the manufacturing unit, engaged in manufacture of dutiable goods only; we are of the view that denial of Cenvat Credit is not proper and justified.

5. We find that on an identical set of facts, for the earlier period, this Tribunal in the case of appellant itself reported in 2017-TIOL-64-CESTAT-MUM has set aside the order and allowed the appeal, holding that the requirements of the Cenvat statute have been duly complied with and as such, the benefit of Cenvat Credit should not be disallowed.

6. In view of above, we do not find any merits in the impugned order passed by the Ld. Commissioner of Central Excise. Accordingly, by setting aside the same, we allow the appeal in favour of the appellant.

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

**(S.K. Mohanty)**  
**Member (Judicial)**

**(Sanjiv Srivastava)**  
**Member (Technical)**