CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 89658 of 2013

(Arising out of Order-in-Original No. PUN-EXCUS-003-COM-012-13-14 dated 30.08.2013 passed by the Commissioner of Central Excise & Service Tax, Pune-III Commissionerate)

Eaton Industrial Systems Private Limited .... Appellant
B-33 Ranjangaon Industrial Area,
Taluka – Shirur, Pune – 412 210.

Versus

Commissioner of Central Excise, Pune-III .... Respondent
ICE House, 41-A, Sasson Road,
Opposite Wadia College,
Pune – 411 001.

APPEARANCE:

Shri Rajesh Oswtwal, Advocate for the Appellant

Shri P.K. Acharya, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86749/2025

Date of Hearing: 28.10.2025

Date of Decision: 28.10.2025

Per: S.K. MOHANTY

Heard both sides and perused the case records.

2. The appellant is engaged *inter alia*, in the manufacture of Gear Boxes and Parts thereof, falling under Chapter Sub-Heading 8708 4000 of the First Schedule to the Central Excise Tariff Act, 1985. The appellant avail CENVAT Credit of Central Excise duty paid on the inputs/capital goods and service tax paid on the input services. The credit so taken are utilized by the appellant towards payment of central excise duty on clearance of the excisable goods from the factory. During the disputed period from 2007-08 to 2011-12, the appellant had availed CENVAT Credit on various counts, which were reversed by them in March 2012 and October 2012, as per the discrepancies pointed out by the audit wing of the department. The appellant had

also paid the interest for delayed reversal of CENVAT Credit. Consequent upon the objection raised by the audit wing and reversal of the CENVAT Credit by the appellant, the department had initiated show cause proceedings against them, seeking confirmation of the CENVAT demand along with interest and for imposition of penalty. The matter arising out of the Show Cause Notice (SCN) dated 02.04.2013 was adjudicated by the original authority vide order dated 30.08.2013, wherein he has confirmed the CENVAT demand, as proposed for recovery in the SCN dated 02.04.2013 and has also appropriated/ adjusted the amount reversed by the appellants during the course of the audit proceedings initiated by the Department. In addition to confirmation of the CENVAT demand along with interest, the original authority has also imposed penalty on the appellant under Rule 15(2) of the CENVAT Credit Rules, 2004 read with the provisions of Section 11AC of the Central Excise Act, 1944.

3. The appellant has assailed the impugned order, to the extent that it has imposed the penalty on them. The appellant has contended that in order to invoke the provisions of Rule 15(2) of the Rules of 2004 read with Section 11AC of the Act of 1944, the paramount requirement is that the department has to substantiate the allegation that there is in fact involvement of the elements viz., suppression, fraud, willful mis-statement, contravention of the provisions of statute with intent to evade payment of duty etc. Thus, the appellant had stated that since the department had conducted audit on the basis of the books of accounts maintained by them and the appellant had *suo motu* reversed the credit and paid the interest amount for delayed reversal of such credit, the provisions of Rule 15(2) of the Rules of 2004 cannot be invoked for imposition of penalty on them.

4. On careful reading of the case records, more particularly the SCN dated 02.04.2013 and the impugned order dated 30.08.2013, we find that the allegation was leveled in the SCN based on the audit conducted by the department in the factory of the appellants. Since, the appellant had duly captured the CENVAT particulars in their books of accounts, in our considered view, the charges of suppression or fraud or willful mis-statement etc., cannot be leveled against them, justifying invocation of the provisions of Rule 15(2) of the Rules of 2004 read with Section 11AC of the Act of 1944. It is no doubt a fact

that the appellant had contravened the provisions of CENVAT statute in taking irregular CENVAT Credit on the disputed goods/services. Since taking of CENVAT Credit is not owing to the reason of suppression, fraud etc., the provisions under Rule 15A *ibid* can only be invoked for imposition of general penalty. However, on perusal of the case records, we find that neither the show cause notice nor the impugned order has invoked/confirmed the penalty on the appellant under Rule 15A *ibid.* Since, the provisions of sub-rule (2) of Rule 15 *ibid* read with Section 11AC *ibid* has only been invoked for confirmation of the penalty demand, we are of the view that in absence of fulfillment of the ingredients mentioned in the said statutory provisions, penalty shall not be imposed on the appellants.

5. In view of the foregoing discussions, we do not find any merits in the impugned order, insofar as it has imposed the penalty of Rs.1,64,65,471/- under Rule 15(2) *ibid* read with Section 11AC *ibid* on the appellants. Therefore, the impugned order, imposing the penalty on the appellants is set aside and the appeal to such extent is allowed in favour of the appellants.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

SM