

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

Excise Appeal No. 85632 of 2022

(Arising out of Order-in-Appeal No. NSK/EXCUS/000/APPL/451-462/2021-22/7733 dated 21.12.2021 passed by the Commissioner (Appeals), CGST & CX, Nashik)

Hindustan Coca-Cola Beverages Pvt. Ltd.Appellant
Plot no. B-19, MIDC,
Ambad, Nashik

VERSUS

Commissioner of Central Excise &Respondent
Service Tax, Nashik
Plot no. 155, Sector P-34, NH, Jaistha-Vaishakh
CIDCO, Nashik

APPEARANCE:

Shri Chirag Shetty, Advocate for the appellant
Shri Xavier Mascarenhas (AR) for the respondent

CORAM:

HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER No: 86788/2025

DATE OF HEARING : 11.06.2025

DATE OF DECISION : 13.11.2025

This appeal has been preferred against the impugned Order-in-Appeal dated 21.12.2021 passed by the Commissioner (Appeals) CGST & C.Ex., Nashik whereby the learned Commissioner uphold the Adjudication Order denying the CENVAT Credit to the appellant on outward Goods Transport Agency (GTA) service.

2. The issue herein pertains to the eligibility of appellant to avail Cenvat credit amounting to Rs. 4,41,453/- on outward Goods Transport Agency (GTA) services [*for the period September, 2014 to June, 2017*] utilised for transportation of their product from its factories/depots to the customers' premises. The said credit was distributed by its Input Service Distributor (ISD) at Mumbai. The Adjudicating Authority while denying the credit had relied upon para 8.2 of CBIC's circular No. 1065/4/2018-CX dated 8.6.2018 which clarified that the Cenvat credit on outward transportation is admissible only '*upto the place of removal*'.

3. According to learned counsel, the appellant sold the goods on *FoR (Free on Road)* basis with delivery at the customer's premises and the cost of transportation upto the customer's place is entirely borne by the appellant and forms an integral part of the price charged. The risk/responsibility over the goods remained with the appellant until the goods are delivered to the respective customer. In support, learned Counsel drew my attention to few sample invoices annexed with the appeal. Learned Counsel further submits that the credit in issue was availed by the ISD which was subsequently distributed to the appellant by the said ISD and no credit was availed by them directly. Learned Counsel also placed on record two decisions of this Tribunal in Appellant's own case on similar facts. Per contra learned Authorised Representative for Revenue contends that CENVAT credit on outward GTA service beyond the place of removal, which is the factory gate, cannot be allowed and the

appeal is liable to be rejected. In support of his submissions learned Authorised Representative placed reliance on the following decisions:- (i) *Commr of Cus. & C.Ex. Nagpur vs. Ispat Industries Ltd. ; 2015 (324) ELT 670(SC)*, (ii) *CCE & ST vs. Ultra Tech Cement Ltd.; 2018 (9) GSTL 337 (SC)*, and (iii) *Clariant Chemicals (I) Ltd. vs. CCE, Raigad; 2015-TIOL-25610-CESTAT-MUM*.

4. I have considered rival submissions and perused the case records including the written submissions/ case laws placed on record. The credit in issue herein was distributed to the appellant by the *Input Service Distributor (ISD)* which has been availed and utilized by the appellant. According to learned counsel the issue involved herein, whether the place of removal extends to the customers' premises where the goods are delivered on FOR basis, is in a very narrow compass and is no more *res integra* in view of the decisions of this Tribunal in appellant's own case viz. (i) *Final Order No. 85319/2025 dated 3.3.2025 in the matter of Hindustan Coca-Cola Beverages Pvt. Ltd. vs. Commr. CGST & Customs, Goa*; and (ii) *Final Order Nos. 85250-251/2025 dated 24.2.2025 in the matter of Hindustan Coca-Cola Beverages Pvt. Ltd. vs. Commr. CGST & Customs, Goa*.

5. The few sample invoices produced with the appeal specifically mentioned "*Goods are sold for delivery on 'FOR' basis and the responsibility continues till the goods are handed over to the customer.*" Whereas both the lower authorities overlooked

these documents and have recorded finding totally contrary to this fact that the invoices and other documents did not contain any clause which would show that the transfer of property had taken place at customers' premises.

6. In my view, both the orders of the authorities below suffer from lack of proper appreciation of evidence placed on record by the appellant which necessitated the matter to be remanded to the 1st appellate authority i.e. Commissioner (Appeals) for deciding it afresh after re-examining all the relevant evidences/documents and also the aforesaid two decisions (supra) of this Tribunal in Appellant's own case. Needless to mention that the learned Commissioner shall give a proper opportunity of hearing to the appellant. The appellant is directed to produce all the relevant evidences/documents and case laws as and when the date of hearing is fixed by the said authority. Since the issue pertains to an old period (2014-2017), it is expected that the learned Commissioner shall decide it as early as possible preferably within a period of six months from the date of receipt of this order.

7. The impugned order is accordingly set aside and the appeal is allowed by way of remand.

(Pronounced in open Court on 13.11.2025)

(Ajay Sharma)
Member (Judicial)