CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 85458 of 2017

(Arising out of Order-in-Original No. NSK/EXCUS/002/COM/18/2016-17 dated 14.12.2016 passed by Commissioner of Central Excise, Customs & Service Tax, Nashik -II)

Advance Enzyme Technologies Ltd. **.... Appellant**
Plot No. A-61/62 MIDC Malegaon Sinnar,
Dist – Nashik 422 113.

Versus

Commissioner of Central Excise, Nashik-II **.... Respondent**
Kendriya Rajaswa Bhavan, R G Gadkari Chowk,
Nashik 422 002.

WITH

Excise Appeal No. 85459 of 2017

(Arising out of Order-in-Original No. NSK/EXCUS/002/COM/18/2016-17 dated 14.12.2016 passed by Commissioner of Central Excise, Customs & Service Tax, Nashik -II)

Advance Enzyme Technologies Ltd. **.... Appellant**
A Wing, 5th Floor, Sun Magnetica, LIC Service Road,
Louiswadi, Thane (W), Thane – 400 604.

Versus

Commissioner of Central Excise, Nashik-II **.... Respondent**
Kendriya Rajaswa Bhavan, R G Gadkari Chowk,
Nashik 422 002.

APPEARANCE:

Shri S.S. Gupta, Chartered Accountant for the Appellants

Shri A.K. Srivastava, 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/86829-86830/2025

Date of Hearing: 18.11.2025

Date of Decision: 18.11.2025

Per: S.K. MOHANTY

Heard both sides and examined the case records.

2. The appellants are engaged in the manufacture of 'Enzymes' in their Plant located at Sinnar, Nashik and 'Animal Feed Supplements' at Vashind, Thane. Both the said manufacturing units are duly registered with the jurisdictional Central Excise authorities. The other business premise of the appellants located at Pithambur (M.P.), is a Special Economic Zone (SEZ) Unit, engaged in the activities, other than manufacture of excisable goods. The appellants' Head Office is located at Thane and in respect of the taxable services received therein, they had distributed the CENVAT Credit amongst the manufacturing units located at Sinnar and Thane. For the purpose of distributing the CENVAT Credit, the Head Office of the appellants got itself registered with the Service Tax department as an Input Service Distributor (ISD). In the present case, the Head Office of the appellants had distributed the CENVAT Credit of Service Tax to the Sinnar and Thane Unit, which was disputed by the department on the ground that no CENVAT Credit was distributed to the SEZ unit of the appellants located at Pithampur, Madhya Pradesh. The show cause notice (SCN) dated 29.07.2015 was issued to the Sinnar Unit of the appellant located at Nashik, seeking for denial of CENVAT Credit in terms of Rule 14 of the CENVAT Credit Rules, 2004 read with Section 11A of the Central Excise Act, 1944. Further, show cause proceedings were also initiated against the Head Office of the appellants on the grounds that it had contravened the provisions of Rule 7 of the Rules of 2004 read with Rule 26(2) of the Central Excise Rules, 2002. The show cause notices issued to the appellants were adjudicated vide the impugned orders dated 14.12.2016, wherein the learned Commissioner, Central Excise, Customs and Service Tax, Nashik-II has disallowed CENVAT Credit amounting to Rs.68,86,622/- along with interest on the Sinnar Unit of the appellant located in Nashik and also imposed penalties on them under Rule 15 of the Rules of 2004. Further, the impugned order has also imposed penalty of Rs. 5,00,000/- on the appellants' Head Office located in Thane, on the ground that it had not properly distributed the CENVAT Credit amongst all their units. Feeling aggrieved with the impugned order dated 14.12.2016, the appellants herein have filed these appeals before the Tribunal.

3. It is an admitted fact on record that the show cause proceedings were initiated by the department against the manufacturing unit of the appellants located at Sinnar, Nashik. Insofar as taking of CENVAT Credit is concerned, sub-rule (1) of Rule 3 of the Rules of 2004 entitles a manufacturer of excisable goods to take CENVAT Credit on various duties and Service Tax itemized therein. Since, on the basis of invoice issued by the ISD Unit (Head Office), the manufacturing unit located at Nashik had availed the CENVAT Credit of service tax indicated in the invoices, it cannot be said that taking of CENVAT Credit was irregular. Further, there is no allegation, either in the show cause notice or in the impugned order, that the CENVAT Credit so availed by the Nashik Unit was not properly utilized by them for payment of Central Excise duty on clearance of the final products from the factory. Since, taking of CENVAT Credit and utilization of the same were in conformity with the CENVAT Statute, in our considered opinion, Rule 14 of the Rules of 2004 cannot be invoked for recovery of the CENVAT Credit availed by the appellants' Sinnar Unit. Therefore, the SCN issued against the Sinnar Unit of the appellants located at Nashik and subsequent confirmation of the adjudged demands on them vide the impugned order cannot be sustained. Therefore, the impugned order, confirming the CENVAT demand along with interest and imposition of penalty on the appellants' Sinnar Unit is set aside and the appeal to such extent is allowed in favour of the appellant.

4. Insofar as imposition of penalty on the Head Office of the appellant having ISD registration is concerned, we find that the penalty has been rightly imposed on the Head Office as the ISD. However, considering the fact that the Head Office of the appellants had entertained the *bona fid*e belief that it can distribute the credit amongst the units, engaged in manufacture of excisable goods and not on the SEZ unit, the quantum of penalty imposed in the impugned order can be reduced in the interest of justice. Therefore, the quantum of penalty Rs.5,00,000/- imposed in the impugned order on the Head Office of the appellants located at Thane is reduced to Rs. 1,00,000/-, which should be paid forthwith by the appellants.

5. To sum up, the Appeal No. E/85458/2017 filed by the appellants is allowed and Appeal No. E/85459/2017 is partly allowed, in reducing the quantum of penalty.

(Order dictated and pronounced in the open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

Sm