

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 87689 of 2016

(Arising out of Order-in-Original No. Belapur/24/Bel-I/R-III/COMMR/SFA/2016-17/BEL dated 27.09.2016 passed by The Commissioner of Central Excise, Belapur Commissionerate.)

M/s. Henkel Adhesives Technologies Pvt. Ltd.

Plot No.D-73/2, D-74/2, 74/6, TTC, Industrial Area,
Turbhe, Navi Mumbai - 400705.

.... Appellant

Versus

**Commissioner of CGST and Central Excise,
Belapur**

1st Floor, CGO Complex, CBD Belapur,
Navi Mumbai 400 614.

.... Respondent

APPEARANCE:

Shri Sachin Chitnis, Advocate for the Appellant

Shri Rajeev Ranjan, 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/86859/2025

Date of Hearing: 20.11.2025

Date of Decision: 20.11.2025

Per: S.K. MOHANTY

Heard both sides and examined the case records.

2. Brief facts of the case are that the appellants are engaged *inter alia*, in the manufacture of adhesives, falling under Chapter 35 of the First Schedule to the Central Excise Tariff Act, 1985. The appellants had availed CENVAT Credit of Central Excise duty paid on the inputs and service tax paid on the input services, for use in or in relation to manufacture of the said final product. During the disputed period from October 2010 to March 2015, the appellants had availed CENVAT Credit of Service Tax paid on the sales commission paid to the agents for promotional activities undertaken by them for selling the finished product manufactured by the appellants. Taking of CENVAT Credit

was disputed by the department on the ground that the service tax on commission paid to the agent should not be considered as 'input service' in terms of Rule 2(I) of the CENVAT Credit Rules, 2004. For denying the CENVAT benefit to the appellants, the department had relied upon the judgment of Hon'ble Gujarat High Court in the case of *Commissioner of Central Excise, Ahmedabad-II Vs. Cadila Healthcare Ltd.* – 2013 (30) S.T.R. 3 (Guj.).

3. Learned Advocate appearing for the appellants submitted that the commission paid by the appellants to their agent is in context with the sales promotional activities of their finished products and since the phrase "sales promotion" is specifically appearing in the inclusive part of the definition of input service in Rule 2(I) of the Rules of 2004, the appellants should be entitled for the benefit of CENVAT Credit. He further submitted that the department had wrongly placed reliance on the judgement of Hon'ble Gujarat High Court in the case of *Cadila Healthcare Ltd.* (supra) inasmuch as, the issue dealt with in such judgement relates to commission paid for the sale activities and not for the sales promotion activities provided for selling of the finished goods by the party.

4. On the other hand, Learned Authorized Representative appearing for the Revenue reiterated the findings recorded in the impugned order.

5. We have examined the contract entered into between the appellants and their sales promotion agent M/s. U & I Associates. The agreement at paragraph 2 & 3 have specifically recorded that the agent should provide the sales promotion activities to the appellants for selling of their finished products. Since, the activity of sales promotion is specifically finding place in the inclusive part of the definition of input service, in our considered view, the benefit of CENVAT Credit of service tax paid for such activities should be available to the appellants, considering the same as 'input service'. We find that the judgment of Hon'ble Gujarat High Court in the case of *Cadila Healthcare Ltd.* (supra) was entirely on different set of facts inasmuch as provision of sales promotion activity was not the subject matter of dispute in such case. In the present case, since the agent engaged by the appellants had provided the service in relation to sales promotion of the finished products manufactured in the factory, we are of considered opinion that the CENVAT benefit of service tax paid on such activity should be available to the appellants.

6. Therefore, we do not find any merits in the impugned order, insofar as it has confirmed the adjudged demands on the appellants. Accordingly, the impugned order is set aside and the appeal is allowed in favour of the appellants.

(Order dictated and pronounced in the open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

SM