

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

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 90145 of 2014

(Arising out of Order-in-Original No. PUN-EXCUS-001-021-022-14-15 dated 12.09.2014 passed by the Commissioner of Central Excise, Pune-I)

M/s 3M Electro & Communication India Pvt. Ltd. Appellant
145, Mumbai-Pune Road, Pimpri, Pune – 411 018

Versus

Commissioner of Central Excise, Pune-I Respondent
41-A, ICE House, Sassoon Road,
Opp. Wadia College, Pune – 411 001

APPEARANCE:

Shri Gopal Mundhra, Advocate for the Appellant

Shri Rajiv 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/87012/2025

Date of Hearing: 10.12.2025

Date of Decision: 10.12.2025

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Brief facts of the case are that the appellants are engaged, *inter alia*, in the manufacture of various excisable goods and for that purpose, got themselves registered with the Central Excise Department. The appellants avail CENVAT Credit of Central Excise duty paid on the inputs/capital goods and service tax paid on the input services. Apart from manufacturing the excisable goods, the appellants are also engaged in trading activities. During the disputed period from November, 2008 to November, 2013, the appellants had used the input services for manufacture of both excisable goods as well as for the trading of goods. They had complied with the requirement of Rule 6(3)(ii) of the CENVAT Credit Rules, 2004, inasmuch as

proportionate credit attributable to the trading activities was reversed by them. Such reversal particulars were also informed by the appellant to the Range Superintendent by letter dated 02.01.2013. However, the Department had proceeded against the appellant on the ground that they had not intimated the Department regarding availment of the option provided under Rule 6(3)(ii) of Rules of 2004. On basis of such allegation, show-cause notices dated 28.11.2013 and 02.04.2014 were issued by the Department, which were adjudicated vide the impugned order dated 12.09.2014, in confirming the demand along with interest from the appellants. Besides, the impugned order has also imposed penalty on the appellants under Section 11AC of the Central Excise Act, 1944. Feeling aggrieved with the impugned order dated 12.09.2014, the appellant has preferred this appeal before the Tribunal.

3. The facts are not in dispute that the appellants had complied with the requirement of Rule 6(3)(ii) of the Rules of 2004 and that such reversal particulars were also submitted to the Department vide letter dated 02.01.2013. The Department had proceeded against the appellants on the ground that availment of the option under Rule 6(3) of the Rules of 2004 was not intimated to them.

4. On perusal of the case records, we find that the Department had not objected to fact regarding compliance of the requirement provided under Rule 6(3)(ii) *ibid*. Since the mandatory requirement for reversal of proportionate CENVAT Credit has already been complied with, non-filing of intimation letter before the Department should be considered as procedural infraction, for which the substantive right cannot be whittled down. We find that in the identical set of facts, the Co-ordinate Benches of the Tribunal in the following cases had allowed the CENVAT benefit in terms of Rule 6(3)(ii) *ibid*, considering such requirement as procedural in nature:-

- (a) *Alstom T&D India Ltd. Vs. Commissioner of GST & C. Ex, Chennai - 2019 (37) E.L.T. 625 (Tri. - Chennai)*
- (b) *Saravana Stocks Pvt. Ltd. Vs. Commissioner of GST & C. Ex, Chennai - 2021 (52) G.S.T.L. 408 (Tri. - Chennai)*
- (c) *Cranes & Structural Engineers Vs. Commissioner of C. Ex., Bangalore-I - 2017 (347) E.L.T. 112 (Tri. - Bang.)*

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

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha