CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

EXCISE APPEAL NO: 87184 OF 2016

[Arising out of Order-in-Original No: Belapur/11/Bel-III/R-III/COMMR/SFA/ 2016-17/Bel dated 14th June 2016 passed by the Commissioner of Central Excise, Belapur.]

Super Label Mfg Co
A-258 TTC Industrial Area, MIDC
Mahape, Navi Mumbai - 400701 … ***Appellant***

versus

Commissioner of Central Excise
CGO Complex, CBD Belapur, Navi Mumbai - 400614 ***…Respondent***

APPEARANCE:

Shri Suresh Nivatkar, Advocate for the appellant

Shri Ranjan Kumar, Assistant Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 85153/2026

DATE OF HEARING: 04/08/2025
DATE OF DECISION: 27/01/2026

PER: C J MATHEW

The issue in this appeal of M/s Super Label Mfg Co, against order[1] of Commissioner of Central Excise, Belapur, is limited to the

[1] [order-in-original no. Belapur/11/Bel-III/R-III/COMMR/SFA/ 2016-17/Bel dated 14th June 2016]

conformity of transfer of credit in accordance with rule 10 of CENVAT Credit Rules, 2004. From our perusal of the records, it would appear that the appellant, as well as the adjudicating authority, have set out their relative positions in mutually exclusively spheres owing to which the recovery of credit of ₹ 1,06,54,815, along with interest thereon under rule 14 of CENVAT Credit Rules, 2004, for allegedly wrongful availment and imposition of penalty of like amount under rule 15 of CENVAT Credit Rules, 2004, determined on the finding that the said provision had been utilized as a ploy to avail credit even after the manufacturing operations had shifted to plot no. A-258, TTC Industrial Area, Mahape from A-421, MIDC, Mahape, Navi Mumbai, is countered with the contention that the error therein has its origin in overlooking of fact that these inputs/capital goods had been despatched to the old address after the shift. It is common ground that the appellant had shifted their operations from one premises to another under intimation to jurisdictional central excise authorities. It is also common ground that unutilized credit was legally transferrable, alongside the shift, for utilization towards discharge of duty liability on future clearance of goods manufactured at the new premises.

2. The impugned order contends that, with closure of the erstwhile premises attaining finality upon tenancy taken over from them, the claim of goods either yet to be transferred remaining there or continued to be delivered at erstwhile place of production was not tenable thus

'38. I also find that they have taken a new registration at the premises situated at A-258, on the basis of new PAN NO. It was also found from the records on the basis of the letter dated 19.03.2014 of M/s. Zephyr Toymakers Pvt. Ltd. that the, premises situated at A-421 was in possession of M/s. Zephyr Toymakers Pvt. Ltd. with effect from 1st December, 2011. All these facts and the records, reveals that they have handed over the vacant possession of the premises situated at A-421 to M/s. Zephyr Toymakers Pvt. Ltd. and M/s. Zephyr Toymakers Pvt. Ltd. has taken over the possession from M/s. SLMC from December, 2011.

39. I also find from the deposition of Shri Dhaval Mehta that he has stated that they have issued invoices for transfer of some spares which were received from their foreign suppliers in the name of their old address. Whereas the documents speaks that they have issued invoices from the premises situated at A-421, for clearances of the finished goods as well after vacation of the premises, vide their invoices No. 3040 dated 06.12.2011, invoice No. 3069/dated 9.12.2011, invoice No. 3070 dated 02.01.2012, invoice No. 3071 dated 03.01.2012. It is also found that they have issued invoice No. 3088 dated 31.03.2012, for clearance of the inputs viz. self adhesive paper label which is apparently carried out after surrender of the vacant premises situated at A-421 to M/s. Zephyr Toymakers Pvt. Ltd. This fact contradicts the deposition made by Shri Dhaval Mehta, wherein he has admitted that they have issued invoices for clearance of spare parts and machineries.

40. It is an admitted fact that when the premises at A-421 is vacated by M/s. SLMC and the vacant premises have been taken over by the owners M/s. Zephyr Toymakers Pvt. Ltd., there should not be any finished goods and inputs left by the

> *said M/s. SLMC at the said premises situated at A-421. Further, Shri Dhaval Mehta, also deposed that there was no manufacturing activity carried out at the premises situated at A-421, after vacation of the premises by them. In the circumstances, the assessee's contention that they have cleared finished goods and inputs from the premises situated at A-421, after the vacation, is not genuine and cannot be accepted. According to Shri Dhaval Mehta, as deposed in his statement there was no finished goods, inputs and capital goods available in the premises for clearance after vacation of the said premises, hence clearance of such finished goods and inputs cannot be undertaken, without physical presence of the subjected goods in their factory premises.'*

3. We have heard Learned Counsel and Learned Authorized Representative.

4. It is but natural for a scheme of tax/duty credit to provide for situations in which a manufacturing operation is transferred as 'going concern' without having to forego the credit due and yet to be availed. It would be inappropriate to consider rule 10 of CENVAT Credit Rules, 2004 as governing transfer of inputs/capital goods available in the old premises as on the date of transfer as separate provisions acknowledge such imperative in normal course of business; rule 10 of CENVAT Credit Rules, 2004 is intended to cover transfer of accumulated credit and this may by surmised from the general principle that the credit, once taken on tax/duty paid, is not amenable to correlation with any particular goods or service but amasses in a general pool and the entitlement to credit so taken is

closed chapter if due discharge of appropriate duties and receipt of the said goods is not ousted. From this, it may be surmised that credit remaining unutilized cannot be correlated with remaining stock of inputs and capital goods; such accumulation may arise from inverted duty structure, selective use of credit for clearance or efficient use of inputs. These are neither provided in CENVAT Credit Rules, 2004 as cause for determining ineligibility to use such credit for clearance of dutiable goods in the future nor is there any bar on transfer of goods not commensurate with quantity of goods transferred to the new premises. Rule 10(3) of CENVAT Credit Rules, 2004 stipulates satisfaction only to the extent in

> '***RULE 10. Transfer of CENVAT credit. —***
>
> *xxxxx*
>
> *(3) The transfer of the CENVAT credit under sub-rules (1) and (2) shall be allowed only if the stock of inputs as such or in process, or the capital goods is also transferred along with the factory or business premises to the new site or ownership and the inputs, or capital goods, on which credit has been availed of are duly accounted for to the satisfaction of the Deputy Commissioner of Central Excise or, as the case may be, the Assistant Commissioner of Central Excise.'*

5. It would appear that the adjudicating authority has neither examined the books nor entertained any doubts as to the integrity of the CENVAT credit account reflecting procurement and utilization. The appellant appears to have sought to buttress legitimacy for the transfer

of credit after the shift by correlation with the goods received subsequently – a claim that was not necessary and afforded munition to the central excise authorities to allege subterfuge.

6. It would not be out place to point out that it is settled law that credit, to the extent taken against prescribed documents, is not be denied for discrepancy in the address therein. Thus, the appellant was entitled to take the credit on the documents even if the goods had been received subsequent to the transfer contingent on arrival at the new premises ultimately. To the extent of non-conformity with the provisions of law, as enacted and judicially determined, in the finding of the adjudicating authority, the impugned proceedings are incomplete - both by incorrect interpretation of rule 10 of CENVAT Credit Rules, 2004 and want of details from the noticee. This gap requires to be rectified. To enable that, we set aside the impugned order and remand the matter back to the adjudicating authority for a fresh decision with the direction to the appellant herein to furnish all details of the receipt of goods after the shift along with supporting documents.

7. Appeal is allowed by way of remanded.

(Order pronounced in the open court on 27/01/2026)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*