CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 89445 of 2014

(Arising out of Order-in-Original No. 15-97/COMMR(WLH)/LTU-M/CX/2014 dated 14.07.2014 passed by the Commissioner of Central Excise & Service Tax, LTU, Mumbai)

M/s Ambuja Cements Ltd. **.... Appellant**
Elegant Business Park, MIDC,
Cross Road 'B', Off Andheri-Kurla Road,
Andheri (East), Mumbai – 400 059

Versus

Commissioner of Central Excise & Service Tax, **.... Respondent**
Large Tax Payer Unit (LTU), Mumbai
8th Floor, Centre-I, World Trade Centre,
Cuffe Parade, Mumbai – 400 005

WITH

Excise Appeal No. 89446 of 2014

(Arising out of Order-in-Original No. 15-97/COMMR(WLH)/LTU-M/CX/2014 dated 14.07.2014 passed by the Commissioner of Central Excise & Service Tax, LTU, Mumbai)

M/s Ambuja Cements Ltd. **.... Appellant**
Elegant Business Park, MIDC,
Cross Road 'B', Off Andheri-Kurla Road,
Andheri (East), Mumbai – 400 059

Versus

Commissioner of Central Excise & Service Tax, **.... Respondent**
Large Tax Payer Unit (LTU), Mumbai
8th Floor, Centre-I, World Trade Centre,
Cuffe Parade, Mumbai – 400 005

AND

Excise Appeal No. 89447 of 2014

(Arising out of Order-in-Original No. 15-97/COMMR(WLH)/LTU-M/CX/2014 dated 14.07.2014 passed by the Commissioner of Central Excise & Service Tax, LTU, Mumbai)

M/s Ambuja Cements Ltd. **.... Appellant**
Elegant Business Park, MIDC,
Cross Road 'B', Off Andheri-Kurla Road,
Andheri (East), Mumbai – 400 059

Versus

Commissioner of Central Excise & Service Tax, **.... Respondent**
Large Tax Payer Unit (LTU), Mumbai
8th Floor, Centre-I, World Trade Centre,
Cuffe Parade, Mumbai – 400 005

AND

Excise Appeal No. 89448 of 2014

(Arising out of Order-in-Original No. 15-97/COMMR(WLH)/LTU-M/CX/2014 dated 14.07.2014 passed by the Commissioner of Central Excise & Service Tax, LTU, Mumbai)

M/s Ambuja Cements Ltd. **.... Appellant**
Elegant Business Park, MIDC,
Cross Road 'B', Off Andheri-Kurla Road,
Andheri (East), Mumbai – 400 059

Versus

Commissioner of Central Excise & Service Tax, **.... Respondent**
Large Tax Payer Unit (LTU), Mumbai
8th Floor, Centre-I, World Trade Centre,
Cuffe Parade, Mumbai – 400 005

AND

Excise Appeal No. 89449 of 2014

(Arising out of Order-in-Original No. 15-97/COMMR(WLH)/LTU-M/CX/2014 dated 14.07.2014 passed by the Commissioner of Central Excise & Service Tax, LTU, Mumbai)

M/s Ambuja Cements Ltd. **.... Appellant**
Elegant Business Park, MIDC,
Cross Road 'B', Off Andheri-Kurla Road,
Andheri (East), Mumbai – 400 059

Versus

Commissioner of Central Excise & Service Tax, **.... Respondent**
Large Tax Payer Unit (LTU), Mumbai
8th Floor, Centre-I, World Trade Centre,
Cuffe Parade, Mumbai – 400 005

AND

Excise Appeal No. 89450 of 2014

(Arising out of Order-in-Original No. 15-97/COMMR(WLH)/LTU-M/CX/2014 dated 14.07.2014 passed by the Commissioner of Central Excise & Service Tax, LTU, Mumbai)

M/s Ambuja Cements Ltd. **.... Appellant**
Elegant Business Park, MIDC,
Cross Road 'B', Off Andheri-Kurla Road,
Andheri (East), Mumbai – 400 059

Versus

Commissioner of Central Excise & Service Tax, **.... Respondent**
Large Tax Payer Unit (LTU), Mumbai
8th Floor, Centre-I, World Trade Centre,
Cuffe Parade, Mumbai – 400 005

AND

Excise Appeal No. 89451 of 2014

(Arising out of Order-in-Original No. 15-97/COMMR(WLH)/LTU-M/CX/2014 dated 14.07.2014 passed by the Commissioner of Central Excise & Service Tax, LTU, Mumbai)

M/s Ambuja Cements Ltd. **.... Appellant**
Elegant Business Park, MIDC,
Cross Road 'B', Off Andheri-Kurla Road,
Andheri (East), Mumbai – 400 059

Versus

Commissioner of Central Excise & Service Tax, **.... Respondent**
Large Tax Payer Unit (LTU), Mumbai
8th Floor, Centre-I, World Trade Centre,
Cuffe Parade, Mumbai – 400 005

AND

Excise Appeal No. 89452 of 2014

(Arising out of Order-in-Original No. 15-97/COMMR(WLH)/LTU-M/CX/2014 dated 14.07.2014 passed by the Commissioner of Central Excise & Service Tax, LTU, Mumbai)

M/s Ambuja Cements Ltd. **.... Appellant**
Elegant Business Park, MIDC,
Cross Road 'B', Off Andheri-Kurla Road,
Andheri (East), Mumbai – 400 059

Versus

Commissioner of Central Excise & Service Tax, **.... Respondent**
Large Tax Payer Unit (LTU), Mumbai
8th Floor, Centre-I, World Trade Centre,
Cuffe Parade, Mumbai – 400 005

APPEARANCE:

Shri Rajesh Ostwal, Advocate a/w Ms. Hanisha Jatania, C.A. for the Appellant

Shri Xavier P Mascarenhas, 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/85191-85198/2026

Date of Hearing: 14.01.2026

Date of Decision: 14.01.2026

PER: S.K. MOHANTY

Briefly stated, the facts of the case are that the appellants are engaged, *inter alia*, in the manufacture of cement and clinkers, falling under Chapter 25 of the First Schedule to the Central Excise Tariff Act, 1985. The appellants avail CENVAT Credit of Central Excise duty paid on the inputs/capital goods and service tax paid on the input services and the credit so taken, are utilized for payment of Central Excise duty on the said excisable goods, manufactured and removed from the factory. During the disputed period, the appellants had availed CENVAT Credit of service tax paid on the Goods Transport Agency (GTA) services, which were disputed by the Department on the ground that place of removal as per the definition of input service contained under Rule 2(l) of the CENVAT Credit Rules, 2004, should be confined only to the factory gate and any expenses incurred thereafter should not be considered as input service, for the purpose of availment of the benefit of CENVAT Credit. The show-cause notices issued to the appellants for different periods, were adjudicated by the learned Commissioner of Central Excise & Service Tax (LTU), Mumbai vide a common Order-in-Original No. 15-97/COMMR(WLH)/LTU-M/CX/2014 dated 14.07.2014 (herein after referred to as "the impugned order"), wherein the proposals made in the show-cause notices were confirmed. Feeling aggrieved with the said order dated 14.07.2014, the appellants have preferred these appeals before the Tribunal.

2. The appellants have contended that the credit taken by them for the period 01.06.2008 onwards were allowed by the adjudicating authority, by holding that the copies of transit insurance policy were submitted by the appellants and denied the CENVAT Credit for the period prior to 01.06.2008 on the sole ground that no transit insurance copies were submitted to demonstrate that ownership of the goods were vested with the appellants, till the same were delivered to the customers at their site.

3. Learned Advocate appearing for the appellants has invited our attention to the impugned order at page 28, to state that the adjudicating authority had accepted the fact that the sale was effected by the appellants to their customers on Free On Road (FOR) destination basis. Learned Advocate further submitted that since the title and ownership of the goods were transferred by the appellants at the buyer's premises, such delivery point should be considered as the 'place of removal' and as per the definition of 'input service', freight paid for delivery at such destination point, should qualify for the said phrase and the benefit of CENVAT should be available. He further submitted that prior to amendment of the definition of input service w.e.f. 01.04.2008, the appellants were otherwise eligible to avail

CENVAT Credit on the transportation charges incurred by them for removal of the goods from the factory. In this context, he has referred to the unamended definition of 'input service' (effective upto 01.04.2008), wherein it has been provided that clearance of final product from the place of removal should be considered as input service. To support the stand that the appellants should be allowed for the benefit of CENVAT in respect of the service tax paid on outward transportation of goods, learned Advocate has relied upon the order passed by the Co-ordinate Bench of the Tribunal, in the case of the appellants themselves, reported in *2024 (11) TMI 877 – CESTAT NEW DELHI.*

4. On the other hand, learned AR appearing for the Revenue reiterates the findings recorded in the impugned order and submitted that since the appellants did not obtain any transit insurance policy for delivery of the excisable goods at the buyers' premises, the ownership of the goods did not remain with them and therefore, the service tax paid on the GTA services should not be available as CENVAT Credit.

5. Heard both sides and examined the case records.

6. Paragraphs recorded in the impugned order, relevant for consideration of the present dispute are quoted herein below: -

> *"3.14* ***Condition No. 1 – The ownership of the goods and property in the goods remained with the seller of the goods in acceptable condition to the purchaser at his doorstep:***
>
> *Examination of the above stated Excise invoices along with the corresponding commercial invoices have revealed that, in respect of sale from factory/depot to the customer's premises, the supply of the goods is on F.O.R. destination basis. Moreover the show-cause notices issued to the noticee have not denied that the sales were on the basis of F.O.R. destination. The transporter's bill and payment details submitted by the assessee indicate that the noticee has borne the freight, in respect of the said goods delivered, upto the customer's doorstep. The assessee has also paid service tax on such freight charges incurred by them and has claimed CENVAT Credit of the same. Thus, the first condition regarding the ownership of the goods to remain with the seller upto the customer's doorstep stands fulfilled.*
>
> *3.15 xxxx xxxx xxxx*
>
> *3.16 For the period from 01.06.2008 to 31.12.2011, the goods have been insured against any damage or loss during transit up to the customer's premises. Accordingly, for the period from 01.06.2008 to 31.12.2011, the second condition that the seller has to bear the risk of loss or damage of the goods during transit to the destination stands fulfilled. It further proves that the goods were under the ownership of the noticee and was delivered to the customer in acceptable condition*

for the period 01.06.2008 to 31.12.2011. However, the notice has not submitted insurance policies for the period prior to 01.06.2008. Hence, it is difficult to conclude that the dispatches were insured upto the customer's premises. As such, the following show-cause notices issued to the party during the impugned period are sustainable for non-fulfillment of the condition that the seller bore the risk of or damage to the goods during transit to the destination..."

7. On reading of the above findings recorded in the impugned order, it would transpire that the learned adjudicating authority has admitted the facts that the sale of goods were on FOR basis; ownership of the goods and property in the goods remained with the seller of the goods (i.e. appellants), till delivery of the same in acceptable condition at the purchaser's door step; and that freight charges were an integral part of the price of the goods, on which Central Excise duty liability was discharged by the appellants. However, the learned Commissioner has denied the benefit of CENVAT Credit on the sole ground that copy of the transit insurance policy documents for delivery of the goods at the buyers' premises, were not submitted by the appellants. Since the facts were admitted that sale of goods were on FOR basis, obtaining the transit insurance is secondary and it is up to the sender of the goods to decide whether to claim the benefit of any damage/ destruction, pilferage from the insurance company or to borne the same by themselves. Thus, it is not the essential criteria that the FOR destination can be ascertained, only when the goods are insured and not otherwise. In the case in hand, since the ownership/title of the goods were transferred by the appellants at the site of the buyers, we are of the view that the case should qualify for consideration as 'input service' as per the provisions contained in Rule 2(l) of the Rules of 2004.

8. We find that the issue arising out of the present dispute, has been dealt with by the Co-ordinate Bench of this Tribunal in the case of appellants (supra), holding as under : -

"5. The appellant cleared and sold goods on FOR destination basis, i.e., the goods were sold for delivery at the buyer's premises. The question is if in such a sale, the place of removal shifts to the buyer's premises where the sale takes place or it will continue to be the appellant's factory. If the place of removal shifts to the buyer's premises, the services availed to transport the goods from the factory upto the buyer's premises will fall under the definition of "input service" under Rule 2(l) of CCR and CENVAT credit will be available on the GTA services availed for transporting goods upto the buyer's premises. This is the position of the appellant.

6. On the other hand, the position of the Revenue is that the place of removal continues to be seller's factory and therefore no CENVAT credit

> *of the service tax paid on the GTA services availed by the appellant to transport the goods up to the buyer's premises where the goods are sold on FOR destination basis is available to them.*
>
> *7. Since there were conflicting views, the issue was referred to the Larger Bench in Ramco Cement versus CCE. The Larger Bench decided that where the goods are sold on FOR destination basis and the ownership of the goods gets transferred at the customer's premises, the place of removal shifts to the buyer's premises.*
>
> *8. In this case, there is no dispute that the goods were sold on FOR destination basis and so the place of removal gets shifted at the buyer's premises. Therefore, following the decision of the Larger Bench, it is held that the 'place of removal' shifts to the buyer's premises and the appellant is entitled to CENVAT credit of the service tax paid on GTA services availed to transport the goods to the buyer's premises."*

9. In view of the foregoing discussions and analysis, 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 the appeals are allowed in favour of the appellants.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha