CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI
REGIONAL BENCH

COURT NO.1

Excise Appeal No. 86319 of 2016

(Arising out of Order-in-Original No. 72A-72B/SHH/PC/RGD/2015-16 dated 26.02.2016 passed by the Principal Commissioner of Central Excise & Customs, Raigad)

Castrol India Ltd. **Appellant**
MIDC , Patalganga Indl. Area,
P.O. Rasayani,
Dist. Raigad 410 220.

Versus

Commissioner of CE & ST, Raigad **Respondent**
Plot No.1, Sector 17, Khandeshwar,
Navi Mumbai 410 206.

Appearance:

Shri Bharat Raichandani, Advocate, for the Appellant
Shri A.K. Shrivastava, Authorised Representative, for Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

Date of Hearing: 12.12.2025
Date of Decision: 12.12.2025

FINAL ORDER No. 87031/2025

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 excisable goods, falling under Chapter Heading Nos. 27, 34, 38 & 39 of the First Schedule to the Central Excise Tariff Act, 1985. The appellants avail CENVAT credit of central excise duty paid on inputs/capital goods and service tax paid on input services. Apart from manufacturing excisable goods, the appellants are also engaged in trading activities of similar goods imported by them. Since the common input services were used by the appellants for manufacture of dutiable goods as well as for the exempted trading

activities, the department had entertained a view that the appellants should maintain separate records and reverse the CENVAT credit in terms of Rule 6(3) of the CENVAT Credit Rules, 2004. On the basis of such understanding, show cause proceedings were initiated by the department, which culminated into the adjudication order dated 26.02.2016, wherein the Principal Commissioner of Central Excise & Customs, Raigad has confirmed the CENVAT demand along with interest and also imposed penalties on the appellants. Feeling aggrieved with the impugned order dated 26.02.2016, the appellants have preferred this appeal before the Tribunal.

3. Obligation of the manufacturer of final product for allowing CENVAT credit has been provided in Rule 6 of the Rules of 2004. Sub-rule (1) of Rule 6 provides that no CENVAT credit shall be permissible on the inputs or input services, when the same are used/utilized in the manufacture of exempted goods. Sub-rule (2) of Rule 6 ibid has cast an obligation on the manufacturer to maintain separate records in respect of excisable goods and the exempted service, and is permitted to take CENVAT credit only on the inputs/input services actually used in the manufacture of excisable goods. Where ever, no records are being maintained by the manufacturer, in bifurcating the CENVAT credit attributable to dutiable goods and exempted goods, Rule 6 ibid through various sub-rules has provided the mechanism for dealing with the quantum of actual CENVAT credit available to the manufacturer. In the present case, the department had alleged that in terms of Rule 6(3A) of the Rules of 2004, the appellants were required to comply with the formula prescribed therein. It is an admitted fact on record that based on the records maintained, the appellants had availed the CENVAT credit on pro rata basis in respect of the input and input services used in the manufacture of the dutiable goods and in respect of the exempted trading activities, they had reversed the CENVAT credit in respect of the input services used therein. Such reversal particulars were also intimated to the department. The credit attributable to trading activity by the appellants, which was reversed by them, had also been appropriated by the adjudicating authority in the impugned order dated 26.02.2016. Thus, it is evident that the appellants had maintained separate records and based on such accounting records, they had reversed the CENVAT credit attributable to the trading activities. However, the department had confirmed the adjudged

demands on the appellants, solely on the ground that the formula prescribed under Rule 6(3A) of the Rules of 2004 has not been adhered to by the appellants at the time of reversal of CENVAT credit attributable to the trading activities.

4. We find that the issue arising out of the present dispute has been dealt with by the Co-ordinate Bench of the Tribunal in the case of *Commissioner of Central Excise and Service Tax, Rajkot vs. Reliance Industries Ltd.* [2019-TIOL-1593-CESTAT-AHM]. The relevant paragraph recorded in the order dated 12.03.2019 is quoted herein below:-

> *"8. From the reading of Rule 6(1), it is clear that only in respect of input or input service used in exempted goods are not allowed. That means input or input service used in taxable service/dutiable goods, Cenvat credit is allowed. Sub-rule (2) of Rule 6 is only as an option that if any input or input services used in exempted goods, credit should not be allowed and only with this intention some mechanisms for expunging Cenvat credit attributed only to the exempted goods are provided. As per clause (b) (ii) & (iv), it is clearly provided that entire credit in respect of receipt and use of inputs/ input service is allowed when such input and input service is used in dutiable final products and taxable service. However, nowhere in Rule 6 it is provided that the input or input service used in dutiable goods shall not be allowed. The Revenue is only interpreting the term "total Cenvat credit" provided under the formula. If the whole Rule 6(1)(2)(3) is read harmoniously and conjointly, it is clear that "Total Cenvat Credit" for the purpose of formula under Rule 6(3A) is only total Cenvat credit of common input service and will not include the Cenvat credit on input/ input service exclusively used for the manufacture of dutiable goods. If the interpretation of the Revenue is accepted, then the Cenvat credit of part of input service even though used in the manufacture of dutiable goods, shall stand disallowed, which is not provided under any of the Rule of Cenvat Credit Rules, 2004."*

5. By relying on the above order passed by the Co-ordinate Bench, this Bench of the Tribunal in the Case of *Reliance Industries Ltd. vs. Commissioner of Central Excise & Service Tax, Raigad* vide Final Order No. A/85659-85660/2020 dated 27.02.2020 has allowed the appeal, holding that maintenance of separate records and reversal of CENVAT credit attributable to the input service used in the activity of trading should suffice for the purpose of Rule 6 of the Rules of 2004.

6. In view of the fact that the issue arising out of the present dispute is no more open for any debate, in view of the earlier orders passed by the Tribunal in the case of Reliance Industries Ltd.(supra), we are of the view that the impugned order, confirming the adjudged demands on the appellants cannot be sustained. Therefore, the impugned order is set aside and the appeal is allowed in favour of the appellants.

(Order dictated in the open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

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