

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

**REGIONAL BENCH**

**COURT NO.1**

**Excise Appeal No. 86157 of 2016**

(Arising out of Order-in-Original No. 60/CEX/COMMR/2016 dated 18.01.2016 passed by the Commissioner of Central Excise, Customs & Service Tax, Aurangabad)

**Lombardini India Pvt. Ltd.**

1-2/1, MIDC, Chikalthana,  
Aurangabad 431 006.

**Appellant**

*Versus*

**Commissioner of CE & ST, Aurangabad**

N-5, Town Centre, CIDCO,  
Aurangabad 431 003.

**Respondent**

Appearance:

Shri Bharat Raichandani, Advocate, for the Appellant  
Shri Rajiv Ranjan, 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. 87032/2025**

**PER: S.K. MOHANTY**

Heard both sides and examined the case records.

2. The appellant is engaged in the manufacture of various excisable goods, classified under Chapter 84 and 85 of the First Schedule to the Central Excise Tariff Act, 1985. The appellant avails CENVAT credit of central excise duty paid on inputs and service tax paid on input services and use such goods/services in furtherance to the manufacture of excisable goods. During the disputed period, the appellant had entered into an agreement with Kohler India Corporation Ltd., for provisioning of certain taxable services. Upon providing the services, the service provider Kohler India Corporation Ltd. had issued invoices to the appellant, based on which the appellant had availed CENVAT credit of

service tax indicated therein. Taking of CENVAT credit by the appellant was disputed by the department on the ground that the narrations provided in the invoice by the service provider are not in the category of taxable services and cannot be considered for the purpose of taking CENVAT credit. On the basis of such understanding, show cause proceedings were initiated against the appellant, which culminated into the adjudication order dated 18.01.2016 (impugned herein), wherein learned Commissioner of Central Excise, Customs & Service Tax, Aurangabad has disallowed CENVAT credit amounting to Rs.56,06,412/- along with interest and also imposed equal amount of penalty on the appellant. Feeling aggrieved with the impugned order dated 18.01.2016, the appellant has preferred this appeal before the Tribunal.

3. Rule 3 of the CENVAT Credit Rules, 2004 is the enabling provision, which entitles a manufacturer to take CENVAT credit of various duties and taxes itemized therein. The credit so taken by the manufacturer, is permitted to be utilized in the manner prescribed in sub-rule (3) of Rule 3 *ibid*. Insofar as taking of CENVAT credit on the basis of invoices issued by the service provider M/s Kohler India Corporation Ltd. is concerned, the said invoices had indicated the service tax component, which was discharged by them, by way of making payment of service tax into the Government exchequer. Since the service tax paid by the service provider, either rightly or wrongly, the same cannot be questioned by the jurisdictional Service Tax authorities, at the service recipient's end, inasmuch as for denying such credit, the department has to specify that taking of CENVAT credit is not in conformity with the CENVAT statute. In the case in hand, since the appellant had availed CENVAT credit of service tax paid by the service provider on the basis of the proper and valid document, the same, in our considered view, cannot be denied by the jurisdictional authorities at the appellant's end.

4. We find that this Tribunal in the case of *IFB Industries Ltd. vs. CST, Service Tax, Ahmedabad* vide Final Order No. A/11622/2023 dated 28.07.2023, has allowed the appeal in favour of the appellant therein, holding that once the department has accepted the payment of service tax made by the service provider on the output service, such CENVAT credit availed by the recipient of service, considering as input service, cannot be denied to it, which was subsequently used/utilized

for payment of service tax on the output service. Further, in the case of *ICICI Lombard General Insurance Company Ltd. vs. Commissioner of CGST and Central Excise, Mumbai Central*, the Tribunal vide Final Order No. A/85169/2023 dated 06.02.2023, by relying upon the judgment of Hon'ble Supreme Court in the case of *MDS Switchgear Ltd.* [2008 (229) ELT 485 (S.C.)], has allowed the appeal, holding that once the tax liability has been discharged and accepted by the department, the consequential CENVAT credit cannot be denied at the recipient's side. In view of the judicial pronouncements (supra), we are of the view that the denial of CENVAT credit in the present case to the appellant cannot be sustained.

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

(Order dictated in the open court)

**(S.K. Mohanty)**  
**Member (Judicial)**

**(M.M. Parthiban)**  
**Member (Technical)**