CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 86282 of 2016

[Arising out of Order-in-Original No. NSK-EXCUS-001-COM-009-15-16 dated 03.03.2016 passed by the Commissioner of Central Excise & Customs, Nashik-I]

Everest Industries Ltd. **.... Appellant**
Gut No.152, Lakhampur,
Tal. Dindori, Dist. Nashik

Versus

Commissioner of Central Excise, Nasik-I **.... Respondent**
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik 422 002.

APPEARANCE:

Shri Tanmay Mangal, Advocate for the Appellant

Shri Xavier Mascarenhas, Authorised Representative for the Respondent

CORAM:

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

FINAL ORDER NO. 85496/2026

Date of Hearing: 10.03.2026
Date of Decision: 10.03.2026

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Brief facts of the case are that the appellant is engaged, *inter alia*, in the manufacture of asbestos cement corrugated sheets, falling under Chapter 68 of the First Schedule to the Central Excise Tariff Act, 1985. The appellant avails CENVAT credit of central excise duty paid on the inputs and service tax paid on the input services. During the disputed period, the appellant had availed CENVAT credit of service tax on sales commission paid to the commission agents in foreign countries, who sold the finished goods manufactured by the appellant in its factory. Availment of CENVAT credit on such service was disputed by the department on the ground that sales commission should not fall within the scope and ambit of 'input service' defined under Rule 2(l) of the CENVAT Credit Rules, 2004. On the basis of such interpretation, proceedings were initiated by the department, which

culminated into the impugned order dated 03.03.2016, wherein the learned adjudicating authority has confirmed the CENVAT demand along with interest and imposed penalties on the appellant. Feeling aggrieved with the impugned order dated 03.03.2016, the appellant has preferred this appeal before the Tribunal.

3. The phrase "input service" has been defined in Rule 2(l) of the Rules of 2004. In the inclusive part of the said definition clause, it has been specifically mentioned that "sales promotion" should be considered as input service for the purpose of availment of CENVAT credit. In the case in hand, it is an undisputed fact as per the impugned order that the appellant had availed CENVAT credit on the sales commission paid to the commission agent towards sale of the finished goods in the foreign market. Since such activities squarely fall under the purview of the inclusive part of the definition of input service as per the said definition, in our considered view, denial of the benefit of CENVAT credit to the appellant cannot be sustained. We find that this Bench of the Tribunal in the case of *Henkel Adhesive Technologies Pvt. Ltd. vs. Commissioner of CGST and Central Excise, Belapur* [2025 (37 Centax 273 (Tri.-Bom)], has allowed the appeal in favour of the appellant therein, holding that sales promotion specifically finds place in the definition of input service for the purpose of CENVAT credit of service tax paid on the commission amount.

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

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

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