# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. II

**Excise Appeal No. 85116 of 2017**

[Arising out of Order-in-Original No. PUN-EXCUS-003-COM-0024-16-17 dated 15.11.2016 passed by the Commissioner of Central Excise, Pune-III]

**Piaggio Vehicles Pvt. Ltd.** **.... Appellant**
E-2 & F-1, Katphal Road,
MIDC Area, Baramati,
Dist. Pune 413 133.

Versus

**Commissioner of Customs, Excise & ST, Pune-III** **....Respondent**
ICE House, 41-A, Sassoon Road, Opp. Wadia College,
Pune 411 001.

**<u>APPEARANCE:</u>**

Ms. Mansi Patil with Ms. Padmavati Patil, Advocates for the Appellant
Shri Rajiv Ranjan, Authorised Representative for the Respondent

**CORAM:**

**HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)**
**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 85601/2026**

Date of Hearing: 24.04.2026
Date of Decision: 24.04.2026

**PER: ASHOK JINDAL**

The appellant is in appeal against the impugned order seeking recovery of erroneously sanctioned refund to them.

2. The facts of the case are that the appellant is engaged in manufacture of three-wheeled and four-wheeled motor vehicles, passenger and cargo three-wheeled drive away chassis. The appellant is availing cenvat credit of input/input services used in the manufacture of their product and paying duty thereon. In some cases, the appellant is exporting their goods and claiming refund in respect of input and input services used in the manufacture of vehicle exported. The refund claim was allowed and sanctioned to the appellant.

3. Later on, a show cause notice was issued to the appellant for recovery of the said refund claim on the ground that an issue entitlement of cenvat credit was pending in another show cause notice dated 07.11.2014 wherein the admissibility of cenvat credit was proposed to be denied to the appellant. Therefore, the refund is erroneously sanctioned and is recoverable. The matter was adjudicated. Considering the fact that the cenvat credit is not available to the appellant, therefore, the refund claim is erroneously sanctioned and sought recovery thereof. Against the said order, the appellant is before us.

4. The learned counsel appearing on behalf of the appellant submits that the show cause notice dated 07.11.2014 has been adjudicated by this Tribunal vide Final Order No. A/86753/2025 dated 19.03.2015 holding that the appellant has correctly taken the cenvat credit. Therefore, the impugned proceedings are not sustainable against the appellant.

5. On the other hand, learned AR reiterated the findings of the impugned order.

6. Heard the parties and considered the submissions.

7. We find the sole issue in this case is that as the appellant was not entitled to take cenvat credit, therefore, refund claimed by them is erroneously sanctioned and consequentially recovery thereof is required. Admittedly, the said issue of admissibility of cenvat credit has been decided by this Tribunal cited (supra). In view of this, we hold that the impugned proceedings are not sustainable against the appellant and the refund claim was sanctioned correctly to the appellant.

8. In view of the above, we find no merit in the impugned order and set aside the same and allow the appeal with consequential relief, if any.

(Order pronounced in open court)

**(ASHOK JINDAL)**
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**
**MEMBER (TECHNICAL)**

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