CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 87386 of 2021

(Arising out of Order-in-Appeal No. NA/57/RGD APP/2021-22 dated 31.05.2021 passed by the Commissioner, Central Tax & Central Excise, (Appeals), Raigad)

Emerson Process Management India P. Ltd. .... **Appellant**
Plot No. A 145/4, TTC Indus Area,
MIDC, Pawne, Navi Mumbai- 400 710.

Versus

Commissioner of CGST & Central Excise, Belapur .... **Respondent**
C.G.O. Complex, 1st Floor, Sector-10,
CBD Belpaur, Navi Mumbai- 400 614.

Appearance:

Shri Gaurav Pachori, Chartered Accountant for the Appellant

Shri Ranjan Kumar, Authorized Representative for the Respondent

FINAL ORDER NO. A/85839/2026

Date of Hearing: 08.04.2026

Date of Decision: 08.04.2026

Per: S.K. MOHANTY

This appeal is directed against the Order-in-Appeal No. NA/57/RGD APP/2021-22 dated 31.05.2021, passed by the Commissioner of Central Tax & Central Excise (Appeals), Raigad (impugned herein). In the impugned order, the learned Commissioner (Appeals) has upheld confirmation of the quantum of penalty of Rs.1,93,078/- imposed on the appellant under Rule 15(3) of the CENVAT Credit Rules, 2004 read with Section 11AC of the Central Excise Act, 1944. Further, the impugned order has also upheld denial of the CENVAT Credit amounting to Rs.2,10,250/- confirmed against the appellant in the adjudication order and also sustained levy of interest and imposition of penalty.

2. With regard to imposition of penalty under Rule 15(3) read with Section 11AC *ibid,* the appellant has contended that they had sufficient balance in the CENVAT Register during the relevant period and thus, the charges of suppression, willful mis-statement, fraud etc., cannot be labelled against the appellant. With regard to the CENVAT demand confirmed in the adjudication order amounting to Rs.2,10,250/-, the

appellant has contended that taking of such CENVAT Credit in the Pawane Unit was procedural in nature, for which the demand confirmed beyond the normal period of limitation cannot be sustained.

3. When the matter was called out for hearing, learned Chartered Accountant appearing for the appellant submitted the electronic credit ledger maintained during the period 01.07.2007 to 31.03.2018, to demonstrate that sufficient balance in the CENVAT Credit Register was maintained to take care of the situation of utilization of CENVAT Credit amounting to Rs.1,93,078/-. Since the appellant had maintained adequate balance in their CENVAT account, the charges of fraud, suppression, willful mis-statement, with intent to evade payment of duty cannot be lavelled against them and therefore, the impugned order upholding imposition of penalty on the appellant cannot be sustained.

4. With regard to irregular availment of CENVAT Credit, I find that in respect of Architectural services, used/utilized in the Pawane unit, the CENVAT was taken and utilized in their Chakan factory. Since the Chakan factory is separately Registered with the Central Excise Department, the Architectural services for such unit cannot be considered as input services as defined under Rule 2(l) *ibid* and also the credit taken in the Pawane unit cannot be considered as proper and valid in terms of Rule 3 ibid. Therefore, I am of the considered view that the CENVAT Credit demand confirmed against the appellant on the architectural services amounting to Rs.2,10,250/- along with interest and imposition of penalty in the original order and subsequently upheld in the Commissioner (Appeals) order would be sustainable.

5. In view of the above discussions, the appeal of the appellant is partly allowed, to the extent of setting aside the penalty amounting to Rs.1,93,078/- upheld in the impugned order. The impugned order upholding confirmation of the demand amounting Rs.2,10,250/- along with interest and penalty thereon, sustains.

6. In the result, the appeal is partly allowed in favour of the appellant.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

Sinha