CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH

EXCISE APPEAL NO: 87357 OF 2016
WITH
EXCISE APPLICATION (MISC) NO: 86046 OF 2024
(on behalf of respondent)

[Arising out of Order-in-Original No: PUN-EXCUS-003-COM-001-16-17 dated 28.06.2016 passed by the Commissioner of Central Excise, Pune – III.]

Cipla Limited
D-27 MIDC, Kurkumbh, Tal: Daund
Dist: Pune – 413 801 ... ***Appellant***

versus

Commissioner of Central Tax
Pune – II
GST Bhavan, 41-A, Sassoon Road, Pune - 411001 ***...Respondent***

AND

EXCISE APPEAL NO: 87439 OF 2016
WITH
EXCISE APPLICATION (MISC) NO: 86063 OF 2024
(on behalf of respondent)

[Arising out of Order-in-Original No: PUN-EXCUS-003-COM-002-16-17 dated 18.07.2016 passed by the Commissioner of Central Excise, Pune – III.]

Cipla Limited
D-7 MIDC, Kurkumbh, Tal: Daund
Dist: Pune – 413 801 ... ***Appellant***

versus

Commissioner of Central Tax
Pune – II
GST Bhavan, 41-A, Sassoon Road, Pune - 411001 ***...Respondent***

APPEARANCE:

Shri Rajesh Ostwal and Shri Druv Rana, Advocates for the appellant

Shri Xavier M Mascarenhas, Superintendent (AR) for the respondent

CORAM:

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

FINAL ORDER NO: 85891-85892/2026

DATE OF HEARING: 08.07.2026
DATE OF DECISION: 08.07.2026

PER: S.K. MOHANTY

Heard both sides and examined the case records.

2. The appellants are engaged *inter alia,* in the manufacture and clearance of bulk drugs and medicaments, falling under Chapter 29 and 30 of First Schedule to Central Excise Tariff Act, 1985. The bulk drugs cleared by the appellants are valued in terms of Section 4 of Central Excise Act, 1944 and in respect of medicaments, the value is determined in terms of Section 4A of the said Act. The appellants are registered under the EOU Scheme.

3. During the disputed period, the appellants had availed CENVAT credit of Central Excise duty paid on the input services viz., Storage & Warehousing and Clearing & Forwarding services. The department had objected to the taking of CENVAT credit on the ground that those disputed services were used or utilized in respect of clearance of excisable goods beyond the factory gate.

It was the case of the department that since the appellants are governed under the EOU Scheme, their 'place of removal' of the final products should be restricted upto the factory gate and other places or premises cannot be considered as 'place of removal' for the purpose of availment of CENVAT credit of service tax paid on the disputed services. Contrary to the stand taken by the adjudicating authority, the appellants have assailed the impugned order on the ground that in respect of 'input service', Rule 3 of CENVAT Credit Rules, 2004 has not prescribed the place of use/utilization of the input services. Thus, the appellants' contention is that since availment of input service is not factory specific, which is required for inputs and capital goods, the benefit of CENVAT credit on the disputed services cannot be denied to them in terms of Rule 3(1) of the Rules of 2004. Further, the appellants have also submitted that based on the invoices issued by the head office as the Input Service Distributor (ISD), the appellants had availed the CENVAT credit; and that issuance of invoice by the ISD or the service tax payment as per the said invoices by them had not been disputed. Therefore, the appellants submitted that the benefit of CENVAT credit cannot be denied to them, inasmuch as CENVAT credit was correctly taken on the basis of ISD invoices and the disputed services are also conforming to the definition of 'input service', as per Rule 2(l) of CENVAT Credit Rules, 2004.

4. On reading of the case records *vis-à-vis* statutory

provisions, dealing with the issue of availment of CENVAT credit, we find that Rule 3 of the CENVAT Credit Rules, 2004 is the enabling provision, which entitles a manufacturer of excisable goods to take CENVAT credit of service tax paid in respect of the input service received by it. The place of receipt i.e., factory of the manufacturer, is not the condition precedent in respect of 'input service', which is the requirement for 'inputs' and 'capital goods'. In our view, the benefit of CENVAT credit should be available to the appellants inasmuch as the service tax element in respect of the disputed services were paid and borne by them, and those services were also properly utilized for the intended purpose. It is also not in dispute that the services, namely, Storage & Warehousing and Clearing & Forwarding services were specifically covered under the inclusive part of the definition of 'input service', for the purpose of taking of CENVAT credit thereon. Furthermore, invoices issued by the Head Office of the appellants as ISD, is also not disputed by the department. Since the issuance of the invoice was not objected to by the jurisdictional Service Tax and Central Excise authorities at the ISD's end, the same cannot be questioned in the case of the appellant's manufacturing unit on the ground that those services were utilized beyond the place of removal. In this case, the goods were cleared by the appellant for sale to the ultimate consumer through their depot and the expenses incurred for delivery of the goods upto the place of removal had also been considered for the purpose of calculation of the assessable value, on which Central Excise duty liability was appropriately discharged. Since the 'place of removal' has been defined in the Central Excise statute to mean a depot also, the benefit of the disputed services should be available, owing to the reasoning that those services were utilized by the appellant in their own depot, facilitating receipt of goods therein and clearance of goods from there to the ultimate buyer. Thus, we do not find any merits in the impugned order, insofar it has disallowed CENVAT benefit to the appellant in respect of the disputed services viz., Storage & Warehousing Service and Clearing & Forwarding Services.

5. Therefore, the impugned order is set aside and the appeals are allowed in favour of the appellants.

(Dictated and Pronounced in Open Court)

(S.K. MOHANTY)
Member (Judicial)

(M.M. PARTHIBAN)
Member (Technical)

**/as*