CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. I

Service Tax Appeal No. 42110 of 2015

(Arising out of Order-in-Appeal No. 88/2015 dated 10.08.2015 passed by Commissioner of Service Tax & Central Excise (Appeals-I), No. 1775, Jawaharlal Nehru Inner Ring Road, Anna Nagar (W) Extn., Chennai – 600 101.)

M/s. Sify Technologies Limited **...Appellant**
2nd Floor, TIDEL Park,
No. 4, Rajiv Gandhi Salai,
Taramani – 600 113.

Versus

Commissioner of GST and Central Excise **...Respondent**
Chennai LTU Commissionerate,
No. 1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar Western Extension,
Chennai – 600 101.

APPEARANCE:

For the Appellant : Mr. G. Natarajan, Advocate
For the Respondent : Mr. N. Satyanarayanna, Authorised Representative

CORAM:
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No. 40759 / 2025

DATE OF HEARING : 11.02.2025
DATE OF DECISION : 24.07.2025

Per Mr. VASA SESHAGIRI RAO

This Service Tax Appeal No. ST/42110/2015 has been filed by M/s. Sify Technologies Limited (hereinafter referred to as the 'Appellant') directed against the Order-in-Appeal No. 88 /2015 dated 10.08.2015 passed by the Commissioner (Appeals-I) Central Excise & Service Tax,

Large Taxpayer Unit, Chennai whereby the demand of Rs.24,08,193/- which was proportionate input credit attributable to the trading activity of the appellant, came to be confirmed under Rule 14 of the CENVAT Credit Rules (CCR), 2004 read with Section 73 (1) of the Finance Act, 1994. The period of dispute pertains to April 2011 to March 2012.

2. Brief facts of the case are that the Appellant is providing services in various fields of Information Technology, wherein, some are taxable services and some are exempt. They are also engaged in 'Trading of software and hardware'. This activity of Trading is defined as 'exempted service' in Rule 2(e) of the CENVAT Credit Rules, 2004 (CCR for short) with effect from 01.04.2011. It is seen from the records that the Appellant has divided its activity into different 'Strategic Business Units (SBUs) based on the nature of services rendered by each unit. In some of the SBUs, input services used by them pertained to both taxable and exempted services for which they stated that they were maintaining separate accounts for the same. However, they exercised the option to avail Rule 6(3)(ii) of the CCR on 14,10.2010. They neither exercised option for 2011-12 nor withdrawn the option filed on 14.10.2010. Further *vide* their letter dated 28.06.2012, they quantified the actual reversal

to be made for 2011-12 under Rule 6(3A) *ibid* and informed that they had reversed an amount of Rs.5,40,844/- provisionally during 2011-12 based on the calculation made on the basis of audited Financial Year of 2010-11. It was claimed that they had made an excess reversal of CENVAT Credit of Rs.1,76,402/-. From the details furnished by them, it appeared to the Authorities that the ratio and quantification arrived by them was wrong. Consequently, a Show Cause Notice No. LTUC/419/2012-ADC dated 14.12.2012 was issued proposing to recover an amount of Rs.24,08,193/- short paid for the period from April 2011 to March 2012 along with applicable interest under Rule 14 of the CCR read with Clause (e) of sub-rule (3A) of Rule 6 of the CCR and to appropriate Rs.5,40,844/- provisionally reversed by them under Rule 6(3A) ibid and to impose penalty under Rule 15(1) of the CCR read with Section 76 of the Finance Act,1994. The Respondent vide Impugned Order in Original Number LTUC/331/2013 dated 26.09.2013 has confirmed the demand along with interest, appropriated the amount provisionally reversed by them under Rule 6(3A) and imposed a penalty of Rs.10,00,000/- under Section 76 of the Act.

3. Aggrieved by the above order, the Appellant filed an Appeal before the Commissioner (Appeals I) LTU, Chennai

and after the due process of Law, the Commissioner (Appeals I) rejected the Appeal and upheld the demand *vide* Order-in Appeal No 88/2015-16 dated 10.08.2015. Hence, the Appellant has come before this forum.

4. The Ld. Advocate Shri G. Natarajan, appeared for the appellant and made the following submissions: -

i. The provisions of Rule 6 of CCR 2004 are applicable only in respect of the credit availed on those input services which are commonly used for providing both taxable and exempted services. As per sub rule (3), which is a non obstante provision, the appellant has to opt for any of the options prescribed under Rule 6 (3) and the appellant in this case has opted for option under (ii), i.e. paying an amount as per Rule 6 (3A). Rule 6 (3A) provides for the mechanism to arrive at the proportion of CENVAT credit attributable to the input services consumed for providing exempted services.

ii. The very purpose of Rule 6 (3A) is to arrive at the quantum of ineligible credit. As per the Explanation II under rule 6 (3), no CENVAT credit could be availed in respect of those input services, which are used exclusively for providing exempted services. In this connection, the appellant wishes to rely on the *prima*

facie view expressed by the Hon'ble Tribunal, in their own Case, reported in 2014-TIOL-60 CESTAT Mad.

iii. The amount to be paid / reversed by the appellant under Rule 6 (3A) shall be determined only with reference to the CENVAT credit availed by them on various input services consumed in SBUs 32, 33, 34 & 35, i.e. common input services. The amount to be reversed has been worked out by the appellant which has been reversed.

iv. The appellant has considered the value of export of services, twice in the calculations, as observed in the show cause notice. After rectifying the same, the revised amount to be reversed would be Rs.4,99,402 as against an amount of Rs.5,40,847 reversed by the Appellant.

v. Further, the appellant wish to submit that if at all, apart from the credit availed on common SBUs, the common input services availed in those SBUs where trading is undertaken alone can be considered for reversal and if considered, the amount to be reversed works out to Rs.5,37,100 as contained in the reply to the show cause notice.

vi. The trading turnover has been considered at Rs.47,33,01,804 both in the appellant's workings and the Department's workings. Out of the above, trading

of developed software accounted for Rs.25,86,12,449, on which service tax has been paid by the appellant and this should be excluded and only Rs.21,46,89,355 should be considered as trading turnover. A worksheet containing the calculations under different options is placed at Page No. 78 of this paper book.

vii. The Original Authority has not at all considered these pleas properly and by relying upon Rule 6, he has come to the conclusion that the total credit availed should be considered for the purpose of working out the credit to be reversed.

viii. The total credit mentioned in the formula should refer only to the common input services credit, which are commonly used for provision of both taxable output service and exempted output service and shall not include the services which are used exclusively for providing Taxable output services.

ix. As the demand itself is thus not sustainable, the proposals for imposition of penalty under Rule 15 (1) of CCR, 2004 is not at all sustainable. Further, in as much as, the Appellant have always maintained a balance of more than the disputed credit, no interest is payable under Rule 14 of CCR, 2004, in as much interest under the said rule would arise only if the wrongly availed

credit has been utilized. The penalty imposed on the Appellant is thus not sustainable.

5. *Per contra,* the Authorized Representative Shri N. Satyanarayanan, representing the Revenue has supported the findings in the Orders passed by the Lower Authorities. He has taken us through the provisions of Rule 6(3A) of CCR and finally submitted that the Appellant has no grounds to argue as this not being an interpretational issue and requested to reject the present Appeal.

6. We have heard the rival contentions and have gone through the documents and written submissions filed by both sides. We have also gone through the various decisions/orders relied upon during the course of arguments.

7. We note that the entire dispute has arisen only on account of interpretation of formula in Rule 6(3A) of the CENVAT Credit Rules, 2004 as it stood during the period of dispute which is extracted below for ease of reference: -

> *"(3A) For determination and payment of amount payable under clause (ii) of sub-rule (3), the manufacturer of goods or the provider of output service shall follow the following procedure and conditions, namely:-*
>
> *(a)*
>
> *a. while exercising this option, the manufacturer of goods or the provider of output service shall intimate in writing to*

the Superintendent of Central Excise giving the following particulars, namely:-

i. name, address and registration No. of the manufacturer of goods or provider of output service;

ii. date from which the option under this clause is exercised or proposed to be exercised;

iii. description of dutiable goods or taxable services;

iv. description of exempted goods or exempted services;

v. CENVAT credit of inputs and input services lying in balance as on the date of exercising the option under this condition;

b. the manufacturer of goods or the provider of output service shall, determine and pay, provisionally, for every month,-

i. the amount equivalent to CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods, denoted as A;

ii. the amount of CENVAT credit attributable to inputs used for provision of exempted services (provisional)= (B/C) multiplied by D, where B denotes the total value of exempted services provided during the preceding financial year, C denotes the total value of dutiable goods manufactured and removed plus the total value of taxable services provided plus the total value of exempted services provided, during the preceding financial year and D denotes total CENVAT credit taken on inputs during the month minus A;

iii. the amount attributable to input services used in or in relation to manufacture of exempted goods and their clearance upto the place of removal or provision of exempted services (provisional) = (E/F) multiplied by G, where E denotes total value of

exempted services provided plus the total value of exempted goods manufactured and removed during the preceding financial year, F denotes total value of taxable and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during the preceding financial year, and G denotes total CENVAT credit taken on input services during the month;

c. the manufacturer of goods or the provider of output service, shall determine finally the amount of CENVAT credit attributable to exempted goods and exempted services for the whole financial year in the following manner, namely:-

i. the amount of CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods, on the basis of total quantity of Inputs used in or in relation to manufacture of said exempted goods, denoted as H;

ii. the amount of CENVAT credit attributable to inputs used for provision of exempted services = (J/K) multiplied by L, where J denotes the total value of exempted services provided during the financial year, K denotes the total value of dutiable goods manufactured and removed plus the total value of taxable services provided plus the total value of exempted services provided, during the financial year and L denotes total CENVAT credit taken on inputs during the financial year minus H;

iii. the amount attributable to input services used in or in relation to manufacture of exempted goods and their clearance upto the place of removal or provision of exempted services = (M/N) multiplied by P, where M denotes total value of exempted services provided plus the total value of exempted

goods manufactured and removed during the financial year, N denotes total value of taxable and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during the financial year, and P denotes total CENVAT credit taken on input services during the financial year;

d. the manufacturer of goods or the provider of output service, shall pay an amount equal to the difference between the aggregate amount determined as per condition (c) and the aggregate amount determined and paid as per condition (b), on or before the 30th June of the succeeding financial year, where the amount determined as per condition (c) is more than the amount paid;

e. the manufacturer of goods or the provider of output service, shall, in addition to the amount short-paid, be liable to pay interest at the rate of twenty-four per cent. per annum from the due date, i.e., 30th June till the date of payment, where the amount short-paid is not paid within the said due date;

f. where the amount determined as per condition (c) is less than the amount determined and paid as per condition (b), the said manufacturer of goods or the provider of output service may adjust the excess amount on his own, by taking credit of such amount;…….

8. Upon hearing both sides, we find that the issues to be decided are: -

i. Whether the Secure Socket Layer Certification (SSLC) and Digital Signature Certificate (DSC) Services are exempted?

ii. Whether the value of export services adopted by the Appellant for reversal of provisional credit is incorrect as alleged in the Show Cause Notice dated 14.12.2012 that it is taken twice as per their worksheet?

iii. Whether under Rule 6 (3A) of the CCR, 2004, total CENVAT credit should be subjected to proportionate reversal or only the common input services credit?

iv. Whether penalty imposed under Rule 15(1) of CCR, 2004 read with Section 76 of the Finance Act 1994 is justified?

9.1 DSC & SSLC EXEMPTED OR NOT:

The above issue has been answered by the Chennai Tribunal in the Appellant's own case in *Sify Technologies Ltd. Versus Commissioner of C.EX. & S.T., LTU, Chennai Final Order Nos. 40552-40553/2018, dated 20-2-2018 in Appeal Nos. ST/40054 & 42388/2013-DB [2018 (14) G.S.T.L. 268 (Tri.-Mad)] [20-02-2018]* wherein it was held that Secure Socket Layer Certification (SSLC) and Digital Signature Certificate (DSC) Services stood exempted for the period from 16-5-2008 onwards till 30-6-2012 covering the period in dispute and in compliance with the judicial discipline the same is necessarily to be followed. Therefore, the issue is answered against the revenue.

9.2 To the question that value of export services adopted by the Appellant for reversal of provisional credit is incorrect as alleged in the Show Cause Notice dated 14.12.2012, that it is taken twice as per their worksheet; the Appellant in Para 7.3 of the grounds of appeal have submitted that they rectified the same and revised the calculation on this score. This according to the Appellant will not alter the Credit to be reversed as they have reversed in excess.

9.3 Now coming to the main issue, - whether in terms of Rule 6(3) of CCR, the total CENVAT credit should be subjected to proportionate reversal or only the common input services.

9.3.1 We find that the Appellant has submitted that: -

a) the amount of credit to be reversed under Rule 6 (3A) of the CENVAT Credit Rules, 2004 has been wrongly worked out by the department on the total credit of Rs.37,04,91,287 availed during the relevant period.

b) It is the case of the appellant that such reversal is required only in respect of the common input services, which are used commonly for providing both

taxable services and also exempt services (trading and other exempted services).

c) The appellant had reversed proportionate credit, by considering the common input services credit of Rs.2,04,03,305 availed in the SBUs of Finance, HR, Admin & Corporate, which are common to other SBUs. The credit of input services consumed exclusively in those SBU's, which provide only exempted services has not been availed. Input services consumed in other SBUs, such as HR, Finance, etc. represent the common credit, which has been subjected to proportionate reversal by the appellant.

9.3.2 It was further submitted that in the Appellant's own case, for the previous period, the issue has been decided in their favour, as reported in 2016-TIOL-911-CESTAT-Mad. The appellant has relied upon the following decisions, wherein it has been held that the amendments made in rule 6 (3A) of the CCR, 2004 with effect from 01.04.2016, to the specific effect that such proportionate reversal is applicable only for the common input services is only clarificatory in nature and it is only the common credit that should be subjected to proportionate reversal.

(i) CCE Vs Reliance Industries Ltd. 2019 (28) GSTL 96 Tri-Ahmd.

(ii) E-connect Solutions Pvt. Ltd. Vs CCE — 2021 (376) ELT 678 Tri-Del.

Reliance was also placed on the decision of the Hon'ble Madras High Court in the case of (para 38) Honda Motor India Pvt. Ltd. CMA No. 1179 of 2018 (Para 38), wherein it has been held as

> *"38. Thus, it is evident that it is the common input services taken during financial year and not the total CENVAT credit which has to be considered for reversal under Rule 6 (3A) (c)(ii) of the CENVAT Credit Rules, 2004. The distortion in the old Rules as it stood during the period in dispute in Rule 6 (3A)(c)(ii) of the CENVAT Credit Rules, 2004 was cured to ensure both manufacturers/service providers do not pay /reverse the amount under Rule 6 (3A)(c)(ii) of the CENVAT Credit Rules, 2004 in excess."*

9.4.1 Further, the Ld. Advocate's submission that the underlying objective of the amendment made in rule 6(3A) of the Rules by Notification dated March 1, 2016, is to consider only common input services and not total input service credit, for the purpose of computing the amount of reversal. Such an amendment was also clarified by the Tax Research Unit Circular dated February 29, 2016 to apply retrospectively in as much as the clarification clearly mentions that the provisions of rule 6 providing for reversal of credit in respect of input services used in exempted services, is being redrafted with the objective to simplify and rationalize the same without altering the established

principles of reversal of such credit. It has been further clarified at paragraph (iv) of the Circular that the purpose of the rule is to deny credit of such part of the total credit taken, as is attributable to the exempted services and under no circumstances this part can be greater than the whole credit.

9.4.2 We find that this issue is no longer res integra and has been decided by the CESTAT Chennai in its Final Order 40009/2020 dated 6.1.2020 in the case of Chennai Petroleum Corporation Ltd. Relevant paragraphs of the said Tribunal decision are reproduced below: -

> *"12.0 The first issue is with regard to whether the letter "P" used in the formula prescribed in Rule 6 (3A) (c) (iii) denotes total CENVAT credit or total credit availed on common inputs and input services. Sub-clause (c) of Rule 6(3A) states that the manufacture of goods shall determine finally the CENVAT credit attributable to exempted goods/exempted services in the manner prescribed. Thus, the formula prescribed is for arriving at the amount that is availed in respect of exempted goods and services, which has to be reversed by the assessee. The formula is not for determining the eligible credit on inputs and input services used for dutiable goods or taxable services. While appreciating this answer, we can understand that "P" denotes the total common CENVAT credit and not the total credit availed by the assessee during the financial year. This issue has been analysed by the Tribunal in the case of CCE &ST, Rajkot v. M/s. Reliance Industries Ltd., [2019 (3) TMI 784 CESTAT AHMEDABAD].*
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> > *"We have carefully considered the submissions made by both the sides and perused the record. The limited issue is to be decided in this case is that for the purpose of calculating the Cenvat credit for reversal in terms of Rule 6(3A) as per the formula given therein, whether the total Cenvat credit means it is including the Cenvat credit of input services*

exclusively used for dutiable product should be taken or total Cenvat credit of only common input service should be taken.

From the reading of Rule 6(1), it is clear that only in respect of input or input service used in exempted goods are not allowed. That means input or input service used in taxable service/dutiable goods. Cenvat credit is allowed. Sub-rule (2) of Rule 6 is only used as an option that if any input or input services used in exempted goods, credit should not be allowed and only with this intention some mechanisms for expunging Cenvat credit attributed only to the exempted goods are provided. As per clause (b) (ii) & (iv), it is clearly provided that entire credit in respect of receipt and use of the inputs/input service is allowed when such input and input service is used in dutiable final products and taxable service. However, nowhere in Rule 6 it is provided that the input or input service used in dutiable goods shall not be allowed. The Revenue is only interpreting the term "total Cenvat credit" provided under the formula. If the whole Rule6(1)(2)(3) is read harmoniously and conjointly, it is clear that "Total Cenvat Credit" for the purpose of formula under Rule 6(3A) is only total Cenvat credit of common input service and will not include the Cenvat credit on input/input service exclusively used for the manufacture of dutiable goods. If the interpretation of the Revenue is accepted, then the Cenvat credit of part of input service even though used in the manufacture of dutiable goods shall stand disallowed, which is not provided under any of the Rule of Cenvat Credit Rules, 2004."

12.1 In the said case, has also considered the Notification No. 13/2016-CE(NT), dated 1-3-2016. It is concluded by Tribunal that amendment made by substitution is clarificatory in nature and, therefore, applicable retrospectively. Following the said decision, we do not find any error in the view of the Commissioner (Appeals) that the computation has to be done by adopting the 'total common CENVAT credit' and not "total CENVAT credit". ***The issue is held against the Revenue."***

9.4.3 The Tribunal in the case of *Reliance Industries Ltd*. (*supra*) Ahmedabad had considered the issue as to interpreting the term "total CENVAT credit" given in the

formula. It was held that whole Rule 6 (1) (2) (3) has to be read harmoniously and conjointly and it would be clear that total CENVAT credit for the purpose of formula under Rule 6 (3A) is only the total CENVAT credit on common input services and will not include CENVAT credit on input/input services exclusively used for the manufacture of dutiable goods. If the interpretation of the Revenue is accepted, it would result in an anomaly that the CENVAT credit which is availed for manufacture of dutiable goods also will get disallowed. Relevant paragraphs 8 and 10 of the said order are noticed as under:

> *"8. From the reading of Rule 6(1), it is clear that only in respect of input or input service used in exempted goods are not allowed. That means input or input service used in taxable service/dutiable goods, CENVAT credit is allowed. Sub-rule (2) of Rule 6 is only as an option that if any input or input services used in exempted goods, credit should not be allowed and only with this intention some mechanisms for expunging CENVAT credit attributed only to the exempted goods are provided. As per clause (b)(ii) & (iv), it is clearly provided that entire credit in respect of receipt and use of inputs/input service is allowed when such input and input service is used in dutiable final products and taxable service. However, nowhere in Rule 6 it is provided that the input or input service used in dutiable goods shall not be allowed. The Revenue is only interpreting the term "total CENVAT credit" provided under the formula. If the whole Rule 6(1), (2) and (3) is read harmoniously and conjointly, it is clear that "Total CENVAT Credit" for the purpose of formula under Rule 6(3A) is only total CENVAT credit of common input service and will not include the CENVAT credit on input/input service exclusively used for the manufacture of dutiable goods. If the interpretation of the Revenue is accepted, then the CENVAT credit of part of input service even though used in the manufacture of dutiable goods, shall stand disallowed, which is not provided under any of the Rule of CENVAT Credit Rules, 2004.*
>
> … … …

> *10. From the above it can be seen that when anomaly was noticed, the Government has substituted the sub-rule (3A). The legislators very consciously substituted the Rule with intention to give a clarificatory nature to the provision of sub-rule (3A) so as to make it applicable retrospectively. It was all along not the intention of the Government to deny CENVAT credit on the input/input service even though used in the dutiable goods. Keeping the said view in mind, the substitution in sub-rule (3A) of Rule 6 was made. Therefore, the substituted provision of sub-rule (3A) shall have retrospective effect being clarificatory."*

The said decision was appealed by the Revenue before the Hon'ble High Court of Gujarat at Ahmedabad *vide* R/Tax Appeal No. 850 of 2019. The Hon'ble High Court *vide* order dated 23-1-2020 *CCE&ST* v. *Reliance Industries Ltd.* dismissed the plea of the Department in regard to the issue whether Tribunal was correct in holding that total CENVAT credit for the purpose of formula under rule 6 (3A) is only total CENVAT credit of common input service and will not include the CENVAT credit on input/input service exclusively used for manufacture of dutiable goods.

9.4.4 We find that the Appellant also placed reliance on the decision of the Hon'ble Madras High Court in the case of (para 38) Honda Motor India Pvt. Ltd. CMA No. 1179 of 2018 (Para 38) which reads as under: -

> *"38. Thus, itis evident that itis the common input services taken during financial year and not the total CENVAT credit which has to be considered for reversal under Rule 6 (3A)(c)(ii) of the CENVAT Credit Rules, 2004. The distortion in the old Rules as it stood during the period in*

dispute in Rule 6 (3A)(c)(ii) of the CENVAT Credit Rules, 2004 was cured to ensure both manufacturers/service providers do not pay reverse/pay the amount under Rule 6 (3A)(c)(ii) of the CENVAT Credit Rules, 2004 in excess."

From the above case Laws discussed above, and also by the amendment of the Rule 6(3A) of CCR 2004 wef 1.4.2016 retrospectively as per clarification issued in TRU Circular 334/8/2016-TRU dated 29.02.2016, we conclude that the common credit is only to be considered for reversal of credit under Rule 6(3A) and not Total credit availed by the Appellant.

Thus, the main issue is answered squarely in favor of the Appellant and against the Revenue.

9.5 PENALTY - As regards imposition of penalty, we observe that the Appellant quantified and reversed the Common credit of Rs.5,40,847 for the year 2011-12 provisionally and informed the Department *vide* their letter dated 28.06.2012 based on the Audited financial year 2010-11 and that there is an excess reversal of Rs.1,76,402. This letter only has resulted in issue of SCN No. LTUC/419/2012-ADC dated 14.12.2012 proposing to recover an amount of Rs.24,08,193/- allegedly short paid for the period from April 2011 to March 2012 along with interest under Rule 14 of the CCR read with Clause (e) of sub-rule (3A) of Rule 6 of the

CCR and to appropriate Rs.5,40,844/- provisionally reversed by them under Rule 6(3A) ibid and to impose penalty under Rule 15(1) of the CCR read with Section 76 of the Finance Act,1994. The Respondent vide Impugned Order in Original Number LTUC/331/2013 dated 26.09.2013 has confirmed the demand along with interest, appropriated the amount provisionally reversed by them under Rule 6(3A) and imposed penalty of Rs.10,00,000/- under Section 76 of the Act. Whatever the practice of accounting adopted by the Appellant cannot be faulted with as he was not availing any input service credit in those SBUs which are involved in trading or exempted services. The services of those SBUs dealing in Finance, Corporate, Administrations and Human Resources Department are common to all other SBUs necessitating reversal of common Cenvat credit of these SBUs. Further, as the main issue is thus settled in favor of the Appellant and as such there is no justification for imposing any penalty. It is ordered to set aside the penalty.

10. After appreciating the facts and applying the ratio of the decisions of the Tribunal and the Hon'ble High Court in the above cases, we are of the considered opinion that the demand confirmed against the appellant cannot sustain and hence, ordered to be set aside. However, there is a need to recompute the amount of credit to be reversed

in terms of provisions of Rule 6(3A) of the CENVAT Credit Rules, 2004.

11. As a matter of abundant caution, to make sure that the mathematical exercise is properly done, the matter is remitted back to the Original Adjudicating Authority for recomputation of the amount of common credit and the credit to be reversed under the Rule 6(3A) of the CCR, 2004.

12. With the aforesaid directions, the appeal is remanded to the Original Adjudicating Authority to complete the mathematical exercise and verification within 3 months of receipt of this order and upon issuing a notice to appellant as well as granting a reasonable opportunity of hearing, and after considering its pleadings and evidence if any, a reasoned and speaking order is expected to be passed.

13. Thus, the appeal is allowed by way of remand only for recomputation of the amount of common credit and also the CENVAT credit to be reversed in terms of Rule 6(3A) of CENVAT Credit Rules, 2004.

(Order pronounced in open court on 24.07.2025)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

MK