

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT No. III

Excise Appeal Nos. 40527 to 40529 of 2018

(Arising out of Order-in-Appeal No. 461/2017(CTA-I) dated 12.12.2017 passed by Commissioner of GST and Central Excise (Appeals-I), No. 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034)

M/s. Cetex Petrochemical Ltd.
Manali,
Chennai – 600 068.

...Appellant

Versus

Commissioner of GST and Central Excise
Chennai North Commissionerate,
No. 26/1, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

...Respondent

APPEARANCE:

For the Appellant : Mr. V. Ravindran, Advocate

For the Respondent : Ms. Anandalakshmi Ganeshram, Authorized Representative

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER Nos. 40292-40294 / 2026

DATE OF HEARING : 29.10.2025

DATE OF DECISION : 23.02.2026

Per Mr. VASA SESHAGIRI RAO

The Appellant, M/s. CETEX Petrochemicals Ltd., Chennai is engaged in the manufacture of Methyl Ethyl Ketone (MEK) and Secondary Butyl Alcohol (SBA), classifiable under Chapter Headings 29141200 and 29051490 of the Central Excise Tariff Act, 1985, and is duly registered under the Central Excise law. The Appellant has been

availing CENVAT credit on inputs, capital goods and input services under the CENVAT Credit Rules, 2004.

1.2 During March 2014 to March 2015, the Appellant availed CENVAT credit on various input services. The Department issued three Show Cause Notices alleging that certain credits were inadmissible under amended Rule 2(I) w.e.f. 01.04.2011, proposing disallowance aggregating to ₹67,77,421/-, which were adjudicated through the Orders-in-Original indicated in the table below.

1.3 On appeal, the Commissioner (Appeals), vide common Order-in-Appeal No. 461/2017 dated 12.12.2017, held several services to be eligible but allowed credit subject to verification, while denying credit on pest control, gardening/cleaning, civil works, cab/logistics, housekeeping manpower and membership services.

1.4 Aggrieved by the partial denial and conditional directions, which in substance amounts to remanding the issue back for verification despite findings on eligibility, the Appellant has filed the present three appeals before this Tribunal as detailed in the below table: -

Appeal No	SCN No. & Date	Period Covered	Credit Disputed (₹)	OIO No. & Date	Common OIA No. & Date
E/40527/18	07/2015 Dt. 01.04.2015	March 2014	4,51,667	23/2017 07.03.2017	461/2017 12.12.2017
E/40528/18	14/2015 Dt. 02.04.2015	Nov 2014 – Jan 2015	4,88,368	24/2017 07.03.2017	461/2017 12.12.2017
E/40529/18	13/2016 08.04.2016	March 2015	58,37,386	25/2017 07.03.2017	461/2017 12.12.2017

2. The Ld. Advocate Mr. V. Ravindran, appeared for the Appellant and the Ld. Authorized Representative Ms. Anandalakshmi Ganeshram, appeared for the Revenue.

3. The Ld. Counsel appearing for the appellant submitted that: -

- i. The definition of "input service" under Rule 2(l), even after amendment w.e.f. 01.04.2011, continues to cover all services used directly or indirectly in or in relation to manufacture, as well as services having a nexus with business operations.
- ii. All disputed services were used either:
 - a. for operation, maintenance and safety of a major petrochemical plant, which is hazard prone.

- b. to comply with statutory mandates under Factories Act, Pollution Control norms, Insurance laws, or
 - c. for logistics, utilities, utilities control, quality testing, and expansion of existing facilities.
- iii. The lower authorities rejected credits mechanically by repeatedly stating "relation to manufacture not proved" without analysing technical write-ups, invoices, Chartered Accountant certificates dated 01.01.2015 and 20.08.2015, or the nature of petrochemical manufacturing.
- iv. It is further contended that the Commissioner (Appeals), after holding services to be eligible, could not remand or direct verification, as powers of remand were withdrawn under Section 35A of the Central Excise Act, 1944, as held by the Hon'ble Supreme Court in *MIL India Ltd. [2007 (210) ELT 188 (SC)]*.
- v. Strong reliance was placed on Final Order of this Tribunal in the Appellant's own case wherein identical services were held eligible even post-01.04.2011.
- vi. Penalties are wholly unsustainable since the issue is interpretational, credits were disclosed in returns, and substantial reversals were made voluntarily.

4.1 The Ld. Authorized Representative Ms. Anandalakshmi Ganeshram reiterated the findings of the Lower Authorities and submitted that after 01.04.2011, the scope of Rule 2(I) of CCR 2004 was consciously restricted.

4.2 She has contended that services such as gardening, pest control, construction, cab services, membership services have no nexus with manufacture and are either excluded or fall outside the ambit of "input service".

4.3 The Ld. Authorized Representative further argued that the burden to establish eligibility lies on the assessee and failure to produce technical documents disentitles credit.

5. From the appeal records, we find that the total disputed CENVAT credit involved in the proceedings is ₹67,77,421/-. Out of this amount, credit to the extent of ₹40,48,776/- has been allowed by the Commissioner (Appeals) under the impugned order, though such allowance has been made subject to verification by the original Adjudicating Authority. Thus, the dispute before us now survives only in respect of the CENVAT credit amounting to ₹27,28,645/-, which has been disallowed by the

Commissioner (Appeals) in relation to the following services: pest control/housekeeping, gardening and cleaning, construction services (commercial and industrial), cab services and logistics, plant civil work, labour/manpower services for gardening and cleaning, and membership services.

6. The following questions now arise for determination: -

- i. Whether the appellant is entitled to avail CENVAT credit amounting to ₹27,28,645/- on the disputed input services in terms of Rule 2(I) of the CENVAT Credit Rules, 2004, as amended with effect from 01.04.2011?
- ii. Whether the disputed services satisfy the "nexus with manufacture" test under the main limb of the definition of "input service", or whether they are hit by the specific exclusionary clauses introduced in Rule 2(I) post-01.04.2011?
- iii. Whether, in the absence of invoices and supporting documentary evidence, the credit can be allowed outright, or whether the matter requires remand for verification of eligibility, nexus, and non-coverage under the exclusion clause?
- iv. Whether the appellant's claim for waiver or quashing of interest and penalties can be considered at this stage,

or whether such consequential issues can arise only after final determination upon verification?

7. The issues are taken up in seriatim. The questions (i), (ii) and (iii) are taken up together for a common decision as they are interlinked.

8. Before proceeding further, it is necessary to advert to the definition of "input service" under Rule 2(I) of the CENVAT Credit Rules, 2004, as amended w.e.f. 01.04.2011. The definition contains a main eligibility limb requiring nexus with manufacture and clearance up to the place of removal, and an exclusionary limb which bars credit on specified services such as construction services, works contract services, rent-a-cab, and membership of clubs when used primarily for personal consumption.

9. At this stage, it is necessary to note that the Hon'ble Supreme Court in *Maruti Suzuki Ltd. v. CCE, 2009 (240) E.L.T. 641 (S.C.)* laid down that the admissibility of credit depends upon the nexus of the input or input service with the manufacture of final products, though subject to statutory restrictions.

10. Further, the Hon'ble Supreme Court in *Ramala Sahkari Chini Mills Ltd. v. CCE, 2016 (334) E.L.T. 3 (S.C.)* held that CENVAT credit provisions are beneficial in nature, but must be interpreted in accordance with the statutory framework, and eligibility is subject to satisfaction of the conditions prescribed.

11. The scope of input services has also been considered in *Ultratech Cement Ltd. v. CCE, 2010 (260) E.L.T. 369 (S.C.)*, wherein the Supreme Court observed that services having direct or indirect nexus with business operations and manufacture would qualify unless specifically excluded.

12. Thus, while the nexus test is broad, post-2011 exclusions must be strictly applied wherever attracted.

Discussion and Findings on Disputed Services

13.1 In respect of pest control and housekeeping services, the appellant has claimed CENVAT credit on the ground that these services were availed for disinfection, sanitation and hygienic upkeep of the manufacturing premises. We find that maintenance of hygienic and pest-free conditions in an industrial unit is not a matter of employee comfort or welfare, but a statutory and operational

necessity for the smooth functioning of the manufacturing process. Such services are directly connected with the upkeep of the factory premises and are essential to ensure compliance with safety, health and quality control requirements, without which manufacturing activity cannot be efficiently carried out. We note that the Tribunal Hyderabad in *Sai Life Sciences Ltd. v. CCE, C & ST, Hyderabad*, reported at 2017 (51) S.T.R. 55 (Tri.-Hyd.), has categorically held that CENVAT credit on pest control and housekeeping services continues to be admissible even after 01.04.2011, as such services have a clear nexus with the manufacturing operations and cannot be treated as personal consumption of employees. We further note that in the appellant's own case, *M/s. CETEX Petrochemicals Limited v. Commissioner of CGST & Central Excise, Chennai*, reported at 2025 (1) TMI 1694 (CESTAT Chennai), this Tribunal has taken the view that housekeeping and cleaning services relating to factory maintenance are eligible input services even after the amendment to Rule 2(I), subject to verification of documentary evidence. Respectfully following the ratio of the aforesaid decisions, we hold that credit on pest control and housekeeping services is admissible in principle under the inclusive limb of the definition of "input service". However, we also find that no invoices or supporting documentary material have been placed before

this Bench to conclusively establish the nature of the services, their nexus with the manufacturing activity, and their non-coverage under the exclusion clause. In the absence of such evidence, we are unable to render a final determination on admissibility. Accordingly, remand is the only option available, and the issue is remanded to the adjudicating authority for the limited purpose of factual verification of invoices, nexus and eligibility, and to allow the credit if found in order.

13.2 In respect of gardening and cleaning services, we find that cleaning services are essential for maintaining hygiene and operational standards in the manufacturing area. Gardening services may also be eligible where undertaken as part of statutory compliance such as green belt development or pollution control requirements, and not merely for beautification. We note that the Hyderabad Bench of this Tribunal in *Sai Life Sciences Ltd. v. CCE, C & ST, Hyderabad*, reported at 2017 (51) S.T.R. 55 (Tri.-Hyd.), has held that gardening and cleaning services are admissible input services even after 01.04.2011 when such services are connected with factory maintenance and statutory obligations. We further note that in the appellant's own case, *M/s. CETEX Petrochemicals Limited v. Commissioner of CGST & Central Excise, Chennai*, reported at 2025 (1) TMI 1694

(*CESTAT Chennai*), this Tribunal has taken a similar view in respect of housekeeping and cleaning services relating to factory upkeep, subject to verification of documentary evidence. Respectfully following the aforesaid decisions, we hold that credit on gardening and cleaning services is admissible in principle under the inclusive limb of Rule 2(l), subject to verification that the services were actually used for factory upkeep/statutory compliance and are not hit by the exclusion clause. However, since no invoices or supporting documentary material have been placed before this Bench, the matter is remanded to the adjudicating authority for limited verification of nexus, eligibility and quantification.

13.3 In respect of construction services (commercial and industrial), we find that Rule 2(l)(A) specifically bars credit on construction services used for construction of buildings or civil structures or for laying of foundation or support structures for capital goods. However, repair, renovation and modernization of plant and factory premises are specifically included within the definition. The appellant contends that the services pertain to repair and maintenance of plant machinery and storage tanks. In the appellant's own case reported at *2025 (1) TMI 1694 (CESTAT Chennai)*, this Tribunal allowed credit after examining documentary

evidence and concluding that the services were in the nature of repair/maintenance and not hit by the exclusion clause. Respectfully following the said decision, we hold that credit is admissible in principle if the services pertain to repair/renovation and are not barred construction. Since invoices and work documents have not been produced before this Bench, the issue is remanded for limited verification though the issue of eligibility of credit is decided in favour of the appellant.

13.4 In respect of cab services, we find that rent-a-cab services are specifically excluded under Rule 2(I)(B) post-01.04.2011 when used primarily for employee transportation or personal consumption. Accordingly, no credit is admissible on this component. As regards interest and penalty, we clarify that recovery is governed by Section 11A of the Central Excise Act, 1944, and interest is payable under Section 11AA/11AB as applicable, particularly where inadmissible credit has been taken and utilized. Penalty consequences arise under Section 11AC, subject to the statutory conditions prescribed therein. If reversal along with applicable interest is established prior to issuance of show cause notice under Section 11A(2B), penalty may not sustain. Since documentary evidence is not available on

record, this limited aspect is remanded to the adjudicating authority for verification.

13.5 In respect of plant civil work services, we find that civil work relating to foundations, structural supports or construction activity ordinarily falls within the exclusion clause under Rule 2(l)(A) post-01.04.2011. Credit is barred where such services are used for construction of a building or civil structure or for laying of foundation or support structures for capital goods. The appellant, however, contends that the disputed services relate not to construction of factory buildings but, towards maintenance and repair of storage tanks and plant-related structures, which are essential for storage of raw materials and finished goods. We observe that admissibility of such credit depends entirely upon the factual nature of the activity undertaken. However, we find that no invoices, work contracts or supporting documents have been placed before this Bench to conclusively establish the scope and nature of the civil work services. In the absence of documentary evidence, we are unable to record a final finding. Accordingly, remand is the only option, and the matter is remanded to the adjudicating authority for limited verification of the nature of work, nexus with manufacturing activity, and applicability of the exclusion clause.

13.6 In respect of labour and manpower services, we find that manpower deployed for housekeeping, cleaning and maintenance of factory premises has nexus with manufacturing operations. Tribunal decisions including *Ultratech Cement Ltd. v. CCE, Hyderabad, reported at 2017 (49) S.T.R. 94 (Tri.-Hyd.)*, support eligibility of such services even post-01.04.2011, provided they are not exclusively used for excluded activities. Accordingly, credit is admissible in principle, subject to verification of invoices and nexus.

13.7 In respect of membership services, the appellant submits that the disputed credit pertains to membership subscription paid to the Confederation of Indian Industry (CII), which is a premier industry association. The Department contends that membership services are specifically excluded under Rule 2(I)(B). We find that the exclusion clause targets membership of clubs or associations when such services are used primarily for personal consumption or recreational purposes of employees. However, corporate membership of industry bodies such as CII, undertaken for business development, industry interaction, policy advocacy and promotion of business interests, cannot be equated with recreational club membership. We note that the Chennai Bench in *Trimble*

Information Technologies India (P) Ltd. v. Commissioner of GST, reported at 2021 SCC Online CESTAT 2004, held that corporate membership subscriptions incurred for business promotion and brand expansion are eligible input services. Following the ratio of the said decision, we hold that membership of CII may be admissible in principle as an eligible business-related input service. However, no documentary evidence has been placed before this Bench to conclusively establish the precise nature and purpose of the membership subscription. In the absence of such evidence, remand becomes unavoidable. Accordingly, the matter is remanded to the adjudicating authority for limited verification, and credit shall be allowed only if purpose of membership is not for recreation, but, for the business.

14. In view of the foregoing discussion, we hold that the disputed input services, namely pest control/housekeeping, gardening and cleaning, construction-related services, plant civil work, manpower services for factory maintenance, and membership services, are admissible as input services in principle, being capable of falling within the inclusive part of Rule 2(I) of the CENVAT Credit Rules, 2004, even after the amendment w.e.f. 01.04.2011, subject to fulfillment of the statutory conditions

of nexus with manufacture/business and non-applicability of the exclusion clauses.

15. In view of the foregoing discussion, we hold that the disputed input services, namely pest control/housekeeping, gardening and cleaning, construction-related services, plant civil work, manpower services for factory maintenance, and membership services, are admissible as input services in principle, being capable of falling within the inclusive part of Rule 2(l) of the CENVAT Credit Rules, 2004, even after the amendment w.e.f. 01.04.2011, subject to fulfillment of the statutory conditions of nexus with manufacture/business and non-applicability of the exclusion clauses.

16. We note that the Commissioner (Appeals) has recorded findings on eligibility but directed allowance subject to verification. While the appellant disputes the remand direction, we find that no invoices or supporting documents have been produced either before the lower appellate authority or before this Bench to conclusively establish eligibility.

17. Though remand powers of the Commissioner (Appeals) have been curtailed as held in MIL India Ltd., this

Tribunal, being the final fact-finding authority, is empowered to remit the matter for limited verification where the factual matrix is incomplete.

18. It is settled law that CENVAT credit cannot be finally allowed without verification of documentary evidence. Therefore, remand is unavoidable for the limited purpose of verifying receipt, nexus, and exclusion applicability of the disputed services. Accordingly, the matter relating to credit of ₹27,28,645/- is remanded to the adjudicating authority for limited verification of invoices and eligibility strictly in terms of Rule 2(I), as amended.

19. Credit on rent-a-cab services is held inadmissible being specifically excluded under Rule 2(I)(B). The plea of reversal prior to SCN, along with interest, shall be verified by the adjudicating authority, and penalty consequences shall follow accordingly.

20. The appellant's prayer for waiver of interest and penalty cannot be considered at this stage, as these are purely consequential and will depend upon the final determination of inadmissible credit, if any, after verification.

21. The Adjudicating Authority shall pass a fresh order in accordance with law on the admissibility of credit and consequential liabilities, preferably within a period of three months, after following the principles of natural justice.

22. Thus, the appeals are partly allowed by way of remand in the above terms and disposed of accordingly.

(Order pronounced in open court on 23.02.2026)

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

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)

MK