

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Central Excise Appeal No. 22044 of 2015

(Arising out of Order-in-Original No. 10/HEB/COMMR/B1/2015 dated 31.03.2015 passed by the Commissioner of Central Excise, Bangalore I Commissionerate, Bengaluru.)

**M/s. Kavveri Telecom Products
Limited,**

Plot No. 104, Suragajakkanahalli,
Haragadde Post, Anekal Road,
Bang562 106.

Appellant(s)

VERSUS

**Commissioner of Central
Excise, Bangalore I
Commissionerate,**

CR. Building,
Bangalore - 560 040.

Respondent(s)

With

Central Excise Appeal No. 22045 of 2015

(Arising out of Order-in-Original No. 10/HEB/COMMR/B1/2015 dated 31.03.2015 passed by the Commissioner of Central Excise, Bangalore I Commissionerate, Bengaluru.)

**Shri Ganesh Director at M/s.
Nextgen Electronics Private
Ltd.,**

No. 31-36, 1st Main 2nd Stage,
ArakereMico Layout,
Bannarghatta Road,
Bangalore.

Appellant(s)

VERSUS

**Commissioner of Central
Excise, Bangalore I
Commissionerate,**

CR. Building,
Bangalore - 560 040.

Respondent(s)

And

Central Excise Appeal No. 22046 of 2015

(Arising out of Order-in-Original No. 10/HEB/COMMR/B1/2015 dated 31.03.2015 passed by the Commissioner of Central Excise, Bangalore I Commissionerate, Bengaluru.)

Shri. C. Shivakumar Reddy,
Managing Director
M/s. Kavveri Telecom
Products Ltd.,
Suragajakkanahalli, Haragadde Post,
Anekal Road,
Bangalore – 562 106.

Appellant(s)

VERSUS

Commissioner of Central
Excise, Bangalore I
Commissionerate,
CR. Building,
Bangalore – 560 040.

Respondent(s)

APPEARANCE:

Mr. Akbar Basha, Chartered Accountant for the Appellant

Mr. Maneesh Akhoury, Assistant Commissioner (AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR PULLELA NAGESWARA RAO,
MEMBER (TECHNICAL)

Final Order No. 20405 – 20407 / 2026

DATE OF HEARING: 18.11.2025

DATE OF DECISION: 24.03.2026

PER : D.M. MISRA

These appeals are filed against Order-in-Original No.10/HE/COMMR/B1/2015 dated 21.04.2015 passed by the Commissioner of Central Excise, Bangalore.

2. Briefly stated the facts of the case are that on the basis of information, the department has initiated investigation against availment of cenvat credit of Rs.1,31,84,000/- against a single invoice by the appellant on 30th September 2009 and on completion of investigation by recording statements, retrieving records, etc., show-cause notice was issued to the appellant for

recovery of cenvat credit of Rs.1,31,84,000/- along with interest and penalty; proposal for penalty on the Directors of the appellant under Rule 26 of Central Excise Rules (CER), 2002. On adjudication, the demand was confirmed with interest and penalty of equal amount under Rule 25 of CER, 2002 and penalty of Rs.5,00,000/- on Shri C. Shiva Kumar Reddy, Managing Director of Kavveri Telecom Products Ltd. and Rs.5,00,000/- on Shri M.M. Ganesh, Director of M/s. Nextgen Electronics Private Limited under Rule 26 of CER, 2002; hence, the present appeals.

3. At the outset, the learned Chartered Accountant (CA) for the appellant submitted that the appellants are engaged in design, development and manufacture of antenna and RF products falling under Chapter 85 of the Central Excise Tariff Act, 1985. He has submitted that they have availed cenvat credit of Rs.1,31,84,000/- against Invoice No.16 dated 30.09.2009 issued by M/s. Nextgen Electronics Pvt. Ltd. for supply of 'RF Kit' against the purchase order dated 20.07.2009. It was noticed that instead of mentioning the address of the appellant i.e., Kavveri Telecom Products Ltd. as consignee, it was shown as M/s. Kavveri Telecom Infrastructure Limited. This aspect was brought to the notice of the supplier M/s. Nextgen Electronics Pvt. Ltd. through their letter dated 05.10.2009. Subsequently, M/s. Nextgen Electronics Pvt. Ltd. rectified the mistake in the said invoice and issued a fresh invoice No.16 dated 30.09.2009. The appellant had implemented new ERP system and as regularisation and updating of their records in the said system, raised the purchase order as KAVJIGGN/363/2009-10 dated 28.03.2010 again for invoice No.16 dated 30.09.2009. The receipt of the goods mentioned under Invoice No.16 dated 30.09.2009 from M/s. Nextgen Electronics Pvt. Ltd. had been recorded in their inward register vide Sl. No.1086 dated 30.09.2009 in page No.208 of the said register. The receipt of

the goods was recorded in the stock register vide IGIR No.2216 dated 31.03.2010. The appellant's factory was closed and on verification by the departmental officers visiting their Head Office in 2013 found that the inward register IGIR register maintained at the Head Office since did not mention the receipt of the said goods against Invoice No.16, investigation was initiated against the appellant. He submits that the IGIR register maintained in the factory reflected the receipt of the said invoice, whereas the register at the corporate office is meant only to record the list of documents received by the corporate office from the factory. He has submitted that they had placed purchase order on the supplier on 20.07.2009. The items required were supplied on 30.09.2009 by issuing Invoice No.16 dated 30.09.2009. They have enclosed proof of payment made to the transporters and the relevant bank statements in support of the fact that the goods were transported from the premises of M/s. Nextgen Electronics Pvt. Ltd. to their factory premises. It is his contention that the learned Commissioner has not appreciate the fact that the purchase order was initially raised on 20.07.2009 and delivery was effected on 30.09.2009 against Invoice No.16 dated 30.09.2009, but due to implementation of new ERP system which required to generate purchase order in the system even for earlier orders and to comply with the said technical and procedural requirement, a new purchase order was raised bearing No.KAVJIGGN/363/2009-10 dated 28.03.2010. This is only for regularisation of a procedural requirement for the purpose of accounting under new ERP system. He submits that they have made an advance payment to the extent of Rs.17,13,14,322/- on 04.09.2009 against purchase price of Rs.18,01,11,360/- which indicates that goods were, in fact, supplied to the appellant on 30.09.2009 and received in their factory premises. Further, he has submitted that the supplier M/s. Nextgen Electronics Pvt. Ltd. have shown the clearances of

the said goods against invoice No.16 dated 30.09.2009 in their Daily Stock Account/RG1 and also in their monthly ER-1 return for the month of September 2009. A copy of the ER-1 return enclosed with the appeal paper-book reveals that they have paid excise duty of Rs.1,35,26,238/-. Explaining the discrepancy in the number of items shown in invoice No.16 dated 30.09.2009 issued earlier and subsequently, he has submitted that initially the supplier had shown 14 items but while issuing revised/corrected invoice while correcting name of the consignee in the said Invoice No.19 dated 30.09.2009, one item (NM connector or for ½" Cable Feeder – Qty 8181) was missed out. He submits that all 14-line items were actually received and was recorded in their inward IGNR, therefore, there is no discrepancy between the earlier and revised invoice No.16 dated 30.09.2009. Further, he has submitted that out of the items mentioned in Invoice No.16 dated 30.09.2009, it has used a part of the goods received for manufacture of final products, for which, the stores officer has duly signed the IGNR register on 31.03.2012; some of the inputs were cleared 'as such' and the balance quantity of inputs were still available in the stock as on that date. He has further submitted that the details of the goods received under Invoice No.16 dated 30.09.2009, quantity of inputs used in the factory and inputs cleared 'as such', and the balance remained unutilised in the factory has been inspected by M/s. S.P. Murali & Co., Chartered Accountant vide Certificate dated 31.01.2015, therefore, the appellant has correctly availed cenvat credit against invoice No.16 dated 30.09.2009.

4. The learned Authorised Representative (AR) for the Revenue reiterated the findings of the learned Commissioner.

5. Heard both sides and perused the records. The limited question involved in the present appeal is whether, the appellant

is entitled to avail cenvat credit of Rs.1,31,84,000/- against invoice No.16 dated 30.09.2009. The undisputed facts are that initially an invoice was issued by one M/s. Nextgen Electronics Pvt. Ltd. bearing Invoice No.16 dated 30.09.2009 wherein the consignee was shown as M/s. Kavveri Telecom Infrastructure Limited by referring to the buyer's purchase order No.002 dated 20.07.2009. The Annexure to the invoice mentions the list of 14 items. Later, another invoice with same number and date was also issued by M/s. Nextgen Electronics Pvt. Ltd. to the appellant where the buyer and the consignee was shown as the appellant i.e., M/s. Kavveri Telecom Products Pvt. Ltd. which has been corrected at the request of the appellant to M/s. Nextgen Electronics Pvt. Ltd. However, in the process of correction of the consignee/buyer's name, the description of the product got altered and also the number of line items, even though the total value, excise duty paid and other particulars remains same. The Revenue's allegation is that the cenvat credit availed by the appellant against the said document is not correct due to the discrepancy between two documents and also on verification of the IGIR register, it was noticed by the audit team that there was no entry of the receipt of the inputs against invoice No.16 dated 30.09.2009. In contrast, the claim of the appellant was that soon after receiving the invoice No.16 dated 30.09.2009 with discrepancy in the consignee name, they have written to M/s. Nextgen Electronics Pvt. Ltd. for amendment of the invoice No.16 dated 30.09.2009 and provided the original and duplicate copy for the record. The said invoice instead of being rectified by M/s. Nextgen Electronics Pvt. Ltd., second invoice was issued with same number and date. However, the second invoice did not exactly conform to the description of goods as per the earlier invoice and in the annexure, one line item was not mentioned. However, substantiating the receipt of the invoice as on 30.09.2009, the appellant placed on record the security inward

register which reflects the Vehicle No. KA 05 – 7478 and the list of 14 items mentioned in the first invoice No.16 dated 30.09.2009. Also they have placed purchase order No.002 dated 20.07.2009 which is mentioned in both the invoices, pursuant to which the delivery of the goods reflected in those invoices were made. Besides the appellant had also placed on record the ledger of M/s. Nextgen Electronics Pvt. Ltd. reflecting payment of amount shown in the invoice dated 30.09.2009 to M/s. Nextgen Electronics Pvt. Ltd. and the purchase register for the period from 01.04.2009 to 30.03.2010. Besides they have also placed on record the stock register of M/s. Nextgen Electronics Pvt. Ltd. who supplied the material and also ER-1 return filed by M/s. Nextgen Electronics Pvt. Ltd. indicating despatch of their goods from their factory on payment of appropriate duty which the appellant had availed as cenvat credit. All these documents indicate that there has been purchase and sale of the inputs mentioned in the invoice No.16 dated 30.09.2009 but due to technical mistakes in showing the name of the appellant as the consignee and also buyer, consignee name was shown as M/s. Kavveri Telecom Infrastructure Limited, which necessitated the issuance of second invoice wherein the supplier M/s. Nextgen Electronics Pvt. Ltd. had committed certain mistakes. The payments made by appellant towards purchase of the inputs and transporters for transportation of the goods and the debit entries of the stock shown in the Daily Stock account of M/s. Nextgen Electronics Pvt. Ltd. reveal that the inputs mentioned in the Invoice No.16 dated 30.09.2009 was received by the Appellant in their factory, no rebuttal has been placed on record by the Revenue. Besides, we find that the Chartered Accountant after due verification of the records in the year 2015 issued a certificate indicating the receipt, use and balance quantity of inputs mentioned under invoice No.16 dated 30.09.2009. Thus, sufficient evidences have been placed by the appellant indicating

payment, delivery, despatch by M/s. Nextgen Electronics Pvt. Ltd., transporter's document for carrying the inputs from the premises of M/s. Nextgen Electronics Pvt. Ltd. to the appellant, purchase order, etc., which clearly indicate that the quantity of inputs against invoice No.16 dated 30.09.2009 had been received in the factory of the appellant and utilised/disposed of, in accordance with the provision of Cenvat Credit Rules, 2004. Therefore, denial of cenvat credit, in our opinion, cannot be justified. Consequently, the impugned order is set aside and the Appeals are allowed with consequential relief, if any, as per law.

(Order pronounced in Open Court on 24.03.2026.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

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