CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Excise Appeal No. 30453 of 2019

(Arising out of **Order-in-Appeal** No.HYD-EXCUS-MD-AP2-0015-19-20-ST dated 27.05.2019 passed by Commissioner of GST & Central Excise (Appeals-II), Hyderabad)

Commissioner of Central Tax Medchal - GST .. **APPELLANT**

H.No.11-4-649/B,
Opposite Mehdi Function Palace,
Above SBI Bazarghat Branch,
Lakdikapool,
Hyderabad,
Telangana – 500 004.

VERSUS

M/s Gloster Cables Ltd., .. **RESPONDENT**

Survey No.310/E,
NH-7, Kallakal Village,
Toopran Mandal,
Medak District,
Telangana – 502 334.

APPEARANCE:

Shri B. Sangameshwar Rao, Authorized Representative for the Appellant.
Shri P. Rosi Reddy, Advocate for the Respondent.

CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30269/2026

Date of Hearing: 15.04.2026
Date of Decision: 07.05.2026

[ORDER PER: ANGAD PRASAD]

The present appeal has been filed by the revenue against the order of the Learned Commissioner (Appeals), whereby, the credit of Service Tax paid on Goods Transport Agency (GTA) used for outward transportation of final products has been allowed to the respondent. The dispute essentially relates to the question whether, in the facts of the present case, the buyer's premises/ depot could be treated as the "place of removal" and whether

outward freight up to such place would qualify as "input service" under Rule 2(l) of the CENVAT Credit Rules, 2004.

2. The respondent is engaged in the manufacture of industrial cables falling under chapter 85 of the Central Excise Tariff. The respondent cleared goods on ex-factory basis as well as on FOR destination basis and also through depots. In respect of FOR sales, the respondent included freight and insurance charges in the transaction value and discharged Central Excise Duty on such value. The respondent also paid Service Tax under Reverse Charge Mechanism on GTA Services used for transportation of goods and availed CENVAT Credit thereof.

3. The Department denied credit on outward transportation on the ground that the place of removal was the factory gate and that transportation beyond the factory gate was not eligible for CENVAT Credit. The Learned Commissioner (Appeals), however, held that where the sale was on FOR destination basis, the freight was part of the assessable value, risk in transit remained with the respondent till delivery, and the sale was completed at the buyers premises. Accordingly, credit on outward transportation was allowed. Hence, the revenue is in appeal.

4. The revenue contends that the factory gate is the place of removal and that outward freight beyond the factory gate cannot be treated as input service after the amendment in the definition of input service. Reliance is placed upon CCE Vs Ultra Tech Cement Ltd., [2018 (9) GSTL 337 (SC)].

5. Learned Counsel for the respondent submitted that the present case is distinguishable from the Ultra Tech Cement case. In the present matter, goods were sold on FOR destination basis; freight and insurance were

included in the assessable value; duty was paid of such value; transit risk remained with the respondent; title passed only on delivery; and the Department never reassessed or disputed the assessable value adopted by the respondent. Therefore, once duty has been accepted on value inclusive of freight, the Department cannot denial credit on the service paid on such freight.

6. We have heard considered the rival submissions and perused the records with written submissions.

7. The expression "place of removal" under Section 4 of the Central Excise Act, 1944 includes a factory, warehouse, depot, premises of consignment agent or any other place from were excisable goods are sold after clearance from the factory. The determination of place of removal is essentially a question of fact depending upon the terms of sale, transfer of title, risk, freight, insurance and the point where sale is completed. Section 4(c) reads as under:

> "4(c) "place of removal" means-
>
> (i) a factory or any other place or premises of production or manufacture of the excisable goods;
> (ii) a warehouse or any other place or premises wherein the excisable goods have been permitted to be deposited without payment of duty;
> (iii) a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the factory,
>
> from where such goods are removed;"

8. In the present case, the material facts are that the goods were supplied on FOR destination basis; freight and insurance were borne by the respondent; the respondent included such freight and insurance in the assessable value; Central Excise Duty was discharged on such value; risk in transit remained with the respondent till delivery; and the sale stood

completed at buyers premises. These facts have not been effectively controverted by the Department.

9. Once the Department accepts the transaction value is inclusive of freight and insurance and collects duty thereon, it cannot simultaneously contend, for the purpose of CENVAT Credit, that the place of removal was only the factory gate. Such an approach would amount to adopting inconsistent positions: one for valuation and another for credit. The law does not permit such artificial splitting of the same transaction.

10. The Learned Commissioner (Appeals), has rightly observed that if the Department was of the view that the factory gate alone was the place of removal, then should have reopened or reassessed the assessable value and excluded freight from the transaction value. Having accepted duty on the value inclusive of freight, denial of credit on Service Tax paid on GTA Service used for such transportation is not legally sustainable.

11. The reliance placed by the revenue on Ultra Tech Cement Ltd., supra, does not advance its case. The Hon'ble Supreme Court in that case considered the general scope of outward transportation after amendment to Rule 2(l) of the CENVAT Credit Rules. However, the said decision does not laid down that in every case and irrespective of the contractual terms, the factory gate alone must be treated as the place of removal. Therefore, where, the facts establish FOR destination sale, retention of ownership / risk till delivery, and inclusion of freight in assessable value, the buyer's premises may constitute the place of removal.

12. The Board Circular NO. 1065/4/2018-CX dated 08.06.2018 also clarifies that the eligibility of credit on outward freight depends upon the

facts of each case and the determination of place of removal. The circular is binding on departmental officers. Therefore, where the conditions of FOR sale are satisfied, outward transportation up to the place of removal would be eligible for credit.

13. The respondent is also relied upon the decision such as:

(i) Inox Air Products Pvt Ltd., Vs Assistant Commissioner [2024 (18) Centax 296 (H.P.)]

(ii) Bharat Frit Werner Ltd., Vs Commissioner of Central Tax, Bangalore [2022 (66) G.S.T.L. 434 (Kar.)]

(iii) Hindustan Zinc Ltd., Vs Commissioner of Central Excise and CGST Udaipur [2022 (65) G.S.T.L 91 (Tri.-Del.)]

(iv) Sanghi Industries Ltd., Vs Commissioner of Central Excise, Kutch (Gandhidham) [2019 (369) E.L.T. 1424 (Tri.-Ahmd.)]

Wherein, credit on outward GTA service was allowed in cases involving FOR destination sales and delivery at buyer's premises.

14. As regards depot clearance, depot is specifically covered within the statutory concept of place of removal. Therefore, transportation up to depot, where goods are stored and sold after clearance from the factory, would also be eligible to the extent it relates to movement up to such place of removal. The respondent has also pleaded that details of outward freight to depot and customers were furnished, and the contrary finding of the Original Authority was not justified.

15. Similar matters have been examined in the case of Schneider Electric India Pvt Ltd., Vs CCT Medchal – GST [2025(3) TMI 1484] and Pawan Power and Telecom Ltd., Vs CCE & S.T. Hyderabad [2026 (4) TMI 1072] and the bench has already decided. The relevant paras of Pawan Power & Telecom Ltd., supra, as thus:

"5. We find that this Bench had already decided the issue involved in this appeal in appellant's own case, wherein, it was held that point of sale was where the ownership of goods was transferred to the buyer or customer and therefore, all the expenses incurred and collected till the buyer's premises shall be part of the assessable value. The relevant para of the judgment is cited below for ready reference:

> "6. The core issue to be decided is whether in this case the sale is on exworks basis or at buyer's premises. Various arguments have been put forth by the learned Advocate including commercial understanding and confirmed ex-works price and payment of VAT to prove that the title in the goods has been transferred at the factory gate itself. However, we find from the factual matrix that the appellant has included both freight and insurance in the exworks price for the purpose of discharging their VAT liability. On going through various clauses, it is obvious that though there is a separate exworks price, which has been termed as fixed price and freight separately, a holistic perusal of all this terms and conditions would clearly indicate that the goods are accepted only when they reach the destination in good condition and liability for their transport including pre- payment of transport is on the appellants themselves. Therefore, in the factual matrix it is obvious that sale has got concluded only at the destination of the buyer and not at the factory gate. We also note that while the appellant has placed reliance on the judgment of Ispat Industries Ltd (supra), the department has placed reliance on various judgments of the Tribunals including Larger Bench decision in the case of Ramco Cements Ltd (supra). The issue which needs to be decided is as to what would be the place of sale in the given factual matrix. This would obviously be based on various terms and conditions and only then one can arrive at definite conclusion whether sale has taken place ex-factory or actually it is getting concluded at the destination of the buyer.

As far as various judgments are concerned, all these judgments have been considered by different Tribunals to arrive at a particular conclusion in a given factual matrix about the place of sale. In the case of Schneider Electric India Pvt Ltd Vs CCT, Medchal-GST (supra), this Bench has examined this issue in a given factual matrix. The relevant para is reproduced below:

> "10. On the issue of the includability of freight, insurance, etc., there are catena of judgments passed by Hon'ble Supreme Court, High Courts and Tribunals. Essentially, one set of judgments has relied on the judgment of Hon'ble Supreme Court in the case of Ispat Industries (supra), whereas, another set of judgments has relied on the judgment of Hon'ble Supreme Court in the case of Roofit Industries (supra) and Emco Ltd (supra). While, as per Ispat Industries (supra) judgment, buyer's premises can never be the place of removal but as per the judgment in Roofit Industries and Emco Ltd (supra), the place of removal has to be determined on the basis of factual matrix including the point at which sale has actually taken place. Therefore, when the sale is clearly on FOR basis, following the judgments in the case of Roofit Industries and Emco Ltd (supra), the place of removal will be at the buyer's premises and obviously the cost of transportation, insurance, etc., if any, incurred by the assessee are required to be included in the assessable value. However, it is always important to

decide as to what shall be the place of removal having regards to the factual matrix and relevant documents. Therefore, in case it is clearly established that the sale has not taken place at the factory and it has been effected only at the buyer's premises then such costs would be includable in the assessable value. We find that in the case of Ramco Cements Ltd Vs CCE, Puducherry (supra), the Larger Bench of this Tribunal, inter alia, examined the issue of eligibility of Cenvat credit of Goods Transport Agency services on outward transportation. After going through catena of judgments including Hon'ble Supreme Court's judgment in the case of Roofit Industries (supra) and Emco Ltd (supra) as well as Ispat Industries (supra), it was held that wherever the clearance of goods is against FOR contract basis, the authority needs to ascertain the place of removal by applying the judgment of Hon'ble Supreme Court in the case of Roofit Industries (supra) and Emco Ltd (supra). In the case of M/s HD Wires Pvt Ltd Vs CCGST & CE, Indore [Final Order No.57985/2024 dt.08.08.2024], the Coordinate Bench at Delhi, inter alia, examined the applicability of judgment of Roofit Industries and Emco Ltd (supra) in a similar factual matrix where the appellant had not included the freight charges in the transaction value. The Tribunal also relied on the judgment of Hon'ble Supreme Court in the case of CCE & ST Vs Ultra Tech Cement [2018 (9) GSTL 337 (SC)], to come to the conclusion that in the given set of facts, point of sale was where the ownership of goods was transferred to the buyer or customer and therefore, all the expenses incurred and collected till the buyer's premises shall be part of the assessable value.

11. We find that both in the OIO as well as in the impugned order, based on the factual matrix, it has been brought out that the contract was on FOR basis, as thus the factual matrix was more clearly covered by the judgment in the case of Roofit Industries (supra) and Emco Ltd (supra). Similarly, we find that in the case of Principal Commissioner, Raipur Vs M/s Unique Structures & Towers Ltd [Final Order No.51254/2019 dt.24.09.2019], the factual matrix was almost identical to the present appeal. The Tribunal considered various judgments including Ispat Industries (supra), Roofit Industries (supra) and M/s Ultra Tech Cement (supra) and distinguished the judgment in the case of Ispat Industries (supra) by observing that the findings of the Hon'ble Supreme Court were only in reference to the context of the fact that once the goods have been sold at the factory gate with an agreement to have the payment after 30 days of delivery, the amount of insurance risk as borne by the transporter is part of the transportation charges and therefore, Hon'ble Apex Court, after observing that delivery of goods in this case was post sale, the value paid for transportation including the cost of insurance cannot be part of the transaction value. Thus, placing reliance on these judgments, we find that the Commissioner (Appeals) has rightly held that in the given factual matrix, the judgments in the case of Roofit Industries (supra) and Emco Ltd (supra) are relevant and not that of Ispat Industries (supra) as clearly the price is not ex-works. We, therefore, do not find any infirmity in the impugned order passed by the Commissioner (Appeals) insofar as merit is concerned."

> 7. Therefore, in view of the factual matrix of the case, as also relevant case laws cited by both the sides, we find no infirmity in the impugned orders and therefore, they are upheld."

16. In view of the above discussion, we hold that where goods were sold on FOR destination basis, freight and insurance were included in assessable value, Central Excise Duty was paid on such value, and risk / title remained with the respondent till delivery, the buyer's premises would constitute the place of removal for the purpose of Rule 2(l) of the CENVAT Credit Rules, 2004. Consequently, Service Tax paid on GTA Service used for outward transportation up to such place is an admissible CENVAT Credit to the appellant.

17. Therefore, the order passed by the Learned Commissioner (Appeals), does not suffer from any legal infirmity. The revenue has failed to make out any ground for interference.

18. Accordingly the appeal filed by the revenue is dismissed and the impugned order is upheld.

(Pronounced in the open court on 07.05.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

Shirisha