

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

REGIONAL BENCH - COURT NO.I

Excise Appeal No.70228 of 2020

(Arising out of Order-in-Appeal No.NOI-EXCUS-001-APP-1287 to 1291-19-20 dated 08.01.2020 passed by Commissioner (Appeals) CGST & Central Excise, Noida)

M/s Ahluwalia Contracts (India) Ltd.,Appellant
(D-3A, Sector-44, Noida)

VERSUS

Commissioner of CGST, NoidaRespondent
(4th Floor, C-56/42, Renu Tower,
Sector-62, Noida-201301)

WITH

- (i) Excise Appeal No.70229/2020 (Ahluwalia Contracts (India) Ltd.;**
- (ii) Excise Appeal No.70230/2020 (Ahluwalia Contracts (India) Ltd.;**
- (iii) Excise Appeal No.70231/2020 (Ahluwalia Contracts (India) Ltd.;**
- (iv) Excise Appeal No.70232/2020 (Ahluwalia Contracts (India) Ltd.**

(Arising out of Order-in-Appeal No.NOI-EXCUS-001-APP-1287 to 1291-19-20 dated 08.01.2020 passed by Commissioner (Appeals) CGST & Central Excise, Noida)

APPEARANCE:

Shri Atul Gupta, Advocate for the Appellant
Shri Santosh Kumar, Authorized Representative for the Respondent

**CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. RAJEEV TANDON, MEMBER (TECHNICAL)**

FINAL ORDER NOs.- 70155-70159/2026

DATE OF HEARING : 28.04.2026
DATE OF PRONOUNCEMENT : 14.05.2026

P. K. CHOUDHARY:

Since all the five appeals are arising out of a common impugned Orders-in-Appeal, the same are taken up together for hearing and disposal. The Appellants have filed the present

appeals assailing the Orders-in-Appeal No.NOI-EXCUS-001-APP-1287 to 1291-19-20 dated 08.01.2020 passed by the learned Commissioner (Appeals), CGST & Central Excise, Noida.

2. The issue involved in these appeals is whether "Ready Mix Concrete¹" in short are 'Concrete Mix' manufactured by the Appellants at the construction site of various residential projects namely 'The Jewel of India', 'Celeste Towers', 'Jaypee Knight Court', 'Kensington Boulevard', 'Logix Blossom Green', 'Assotech Windsor Court', 'Lotus Boulevard' in Noida on a contractual basis and supplied to them, whether dutiable under Central Excise Act.

3. Briefly stated, the facts of the case are that based on information received from the Director General of Central Excise Intelligence, Delhi Zonal Unit, New Delhi, that RMC was being manufactured and used at the construction site of residential projects namely 'The Jewel of India', 'Celeste Towers', 'Jaypee Knight Court', 'Kensington Boulevard', 'Logix Blossom Green', 'Assotech Windsor Court', 'Lotus Boulevard' and no Central Excise duty was being discharged. The officers of Revenue visited the premises of Jaypee Group on 29.10.2015 and drew a panchnama. The official of the Jaypee Group informed that for manufacture of RMC they have got installed Batching plants. Similarly visit to the premises of M/s Assotech Group, M/s Dasnac Designarch and others were made. It appeared to Revenue that the Appellants manufactured and supplied RMC to various clients/customers by manufacturing in their Batching plants installed at the site of clients/customers for various residential projects. The learned Advocate appearing for the Appellants prayed for setting aside of the impugned orders, demand and penalty imposed upon the Appellants.

4. The learned Authorized Representative appearing for the Revenue justified the impugned orders and prayed that the appeals filed by the Appellants, being devoid of any merits, may be dismissed.

5. Heard both the sides and perused the records of the appeals.

¹ RMC

6. We find that the issue in the present appeals is no more *res integra* and is covered by the various decisions of the Tribunal as under:-

I. M/s Ambit Concrete Pvt. Ltd. vs. CGST & CE, Excise Appeal No.70267/2020, Final Order No.70257-70258/2021 dated 30.11.2021 (All.)

II. M/s Ahluwalia Contracts India Ltd. vs. CCE, Bangalore, Excise Appeal No.21250/2017, Final Order No.21855-21856/2025 dated 21.11.2025 (Bang.)

7. It is submitted that the manufacturing process of concrete mix and RMC, that 'concrete mix' was made through mixing sand & concrete by using mixer on site and it was used before initial setting time of cement, while RMC was made where the concrete was required to be used for a longer time i.e. more than the initial setting time of cement; that the design, reflects the strength of RMC / concrete; different types of RMC have different strength and the strength of a particular grade of RMC depends upon the base of water/ cement ratio, workability of design of that grade of RMC. Further stated that stone grit, sand, cement, water and proper chemical are the basic ingredients of RMC, that for increasing duration for use of the produce, chemicals are mixed, which renders it as RMC; that the basic difference between concrete mix and RMC was the use of chemical.

8. It further appeared to Revenue that RMC is an excisable product and classifiable under CTH 38245010 under Miscellaneous Chemical Products, under Central Excise Tariff Act, 1985 and attracts duty @ 6% of the value. Further, RMC was chargeable @ 2% in terms of Entry No.46 of Notification No.1/2011-CE, as amended by Notification No.16/2012-CE, on the condition that the credit of duty on inputs or tax on input services has not been taken under the provisions of Cenvat Credit Rules, 2004. It further appeared that the Appellants never provided any information regarding the availment of Cenvat credit to the Department. Further, Appellants were charging service tax on the job work invoices (for making concrete mix).

Thus, it was assumed that the Appellants were availing Cenvat credit on input and input services. Thus, it appeared that the benefit under the aforementioned notifications was not available. It further appeared that dutiability of RMC has also been clarified by the Board Circular No.368/1/98/CX dated 06.01.1998, according to which it appeared that RMC even if manufactured onsite and used at the construction site, was dutiable. It further appeared to Revenue that in view of the ruling of Hon'ble Supreme Court in Larsen & Toubro Ltd.- 2015 (324) E.L.T. 646 (SC), where it has been held that the exemption under Notification No.4/97-CE dated 01.03.1997 as amended, is available only to concrete mix and not to RMC, and had concluded that both the products are different commodities and that the exemption from levy of Central Excise duty is available only to 'concrete mix' and not to 'RMC'.

9. It further appeared that the effective duty became Nil on RMC manufactured at the site of construction for use in the construction at site, in terms of Entry No.144 of exemption Notification No.12/2012-CE, as amended by Notification No.12/2016-CE. Further, it appeared to Revenue that the Appellants had only manufactured and supplied RMC and not concrete mix.

10. Before proceeding to dwell on the facts, it is required to take notice that the issue as to what is concrete mix and what is RMC have been settled by Hon'ble Supreme Court in the case of L&T vs. CCE, Hyderabad -2015 (324) E.L.T. 646 (SC). The Hon'ble Supreme Court has referred to Board's Circular No.237/71/96-CX dated 12.08.1996, wherein it has been held that –

i) The 'Ready Mix Concrete' plant consists of stone crushers, conveyors, vibrator screen to segregate different sizes of stone aggregates, and a sand mill to produce sand from stones, which was otherwise not present at the site ECO Village-II, Greater Noida, since the appellant were only manufacturing 'Concrete Mix'.

ii) A central batching plant is also installed, in which all aggregates are weighed, batched by electrical controls and limit switches, which was otherwise not present at the site

ECO Village-II, Greater Noida, since the appellant were only manufacturing 'Concrete Mix'.

iii) Cement from site is carried to the batching plant by a screw conveyer operated with automatic weighing gauges, which was otherwise not present at the site - ECO Village-II, Greater Noida, since the appellant were only manufacturing 'Concrete Mix'.

iv) Water is fed through flow meters after subjecting such water to chemical analysis, which was otherwise not present at the site - ECO Village-II, Greater Noida, since the appellant were only manufacturing 'Concrete Mix'.

v) The mixture of stone aggregates, sand, cement and water is mixed in a mixer. The mixture so obtained is loaded on a transit mixer mounted on truck chassis, which is transported to the site of the customers, and the same is discharged at site for use in further construction of building, which was otherwise not present at the site - ECO Village-II, Greater Noida, since the appellant were only manufacturing 'Concrete Mix'.

11. We further take notice that as per Board Circular (supra), RMC plant consists of stone crushers, conveyors, vibrator screen to segregate different sizes of stone aggregates, sand mill to produce sand from stone. A central batching plant is also installed in which all aggregate are weighed, batched by electrical control and limit switches. Cement from site is carried to the batching plant by a screw conveyor, operated with automatic weighing gauges. Water is fed through flow meters after subjecting such water to chemical treatment. The mixture of stone aggregates, sand, cement and water is mixed in a mixer (batching plant). The mixture so obtained is loaded on a transit mixer mounted on truck chassis, which is transported to the site of the customers and the same is discharged at the site for further use in construction of building etc. The qualities accruing to RMC so obtained far out-weight to those of the site mixed concrete. The final product - RMC is a material in plastic, wet process state and not a finished product like blocks or precast tiles or beams.

12. Further, we find that the Tribunal in the Appellant's own case in Excise Appeal No.21250/2017 vide Final Order No.21855-21856/2025 dated 21.11.2025 has allowed the

Central Excise duty exemption to concrete mix manufactured at site. The relevant paragraph of the Tribunal's decision is reproduced as under:-

"12. We find that as per the contract entered by the appellant, it is for supply of reinforced concrete having IS.456 standard and there is no evidence available on record to show that goods manufactured at the batching plant at site is capable of producing ready mix concrete (RMC) specified in IS 4926 as held by the Adjudication Authority. Further we find that no samples were drawn and no inspection was conducted by any authorised person. Thus, in the absence of any admissible evidence, no finding can be given that goods manufactured by the appellant was RMC. Further as per the Circular No. 368/1/98-CX dated 06.01.1998 concrete mix implies the conventional method of concrete production conforming to the ISI Standard 456-1978, which is produced and used at the site of construction. Further, as per Notification No. 4/2006-CE dated 01.03.2006 up to 16.03.2012 and as per Notification No. 12/2012-CE from 17.03.2012 onwards, the duty on concrete mix manufactured at the site of construction for use in construction site is exempted. Therefore, we find that the impugned order upholding the confirmation of demand along with interest and penalty is unsustainable."

13. We find that the facts of the present appeals are squarely covered by the aforesaid decisions of the Tribunal. Accordingly, the impugned orders are set aside and all the above five appeals filed by the Appellants are allowed with consequential relief, if any, as per law.

(Order pronounced in open court on - **14.05.2026**)

Sd/-
(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

Sd/-
(RAJEEV TANDON)
MEMBER (TECHNICAL)

LKS