CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 3

SERVICE TAX APPEAL NO. 50823 OF 2020

[Arising out of Order-in-Original UDZ/EXCUS/000/COM/20/2019-20 dated 31.12.2019 passed by the Commissioner, Central GST Commissionerate, Udaipur]

M/s. Resident Engineer,
Rajasthan Housing Board **Appellant**
1-B, 47, Senthi, Chittorgarh (Raj.)-312001

Vs.

Commissioner of Central GST
Commissionerate- Udaipur
142-B, Hiran Magri, Sector-11, **Respondent**
Udaipur (Raj.)-313002

Appearance:
Present for the Appellant : Shri B.L. Narasimhan and Shri Ashutosh Choudhary, Advocates
Present for the Respondent: Shri S.K.Meena, Authorised Representative

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Date of Hearing :17.04.2026
Date of Decision:25.05.2026

Final Order No.50989/2026

HEMAMBIKA R. PRIYA

The present appeal has been filed by M/s. Resident Engineer, Rajasthan Housing Board[1], against the Order-in-Original No.UDZ/EXCUS/000/COM/20/2019-20 dated 31.12.2019 passed by the Commissioner, Central GST Commissionerate, Udaipur, which

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1. **the Appellant**

confirmed the demand of service tax amounting to Rs.3,07,51,666/- alongwith interest and imposed penalties.

2. The brief facts are that the appellant having service tax registration were engaged in rendering/ receiving taxable services of Construction services, Construction of residential Complex, Commercial/ Industrial buildings or Civil structure, Transport of goods by road, renting of immoveable service, legal consultancy service & other taxable services. During the course of Audit of the Appellant, the department noticed that the Appellant had wrongly availed the Cenvat Credit amounting to Rs.3,07,51,666/- without having proper documents prescribed under Rule 9(1) of the Cenvat Credit Rules, 2004 during the period from July, 2012 to 30.06.2017. The credit was taken by the Appellant on the basis of running account bills prepared by engineers of the appellant showing measurement of work and amount to be paid to the Contractor. The Department opined that these running account bills did not contain the mandatory information required for availing Cenvat credit, therefore they cannot be termed as proper document for availing Cenvat credit in terms of Rule 9(1) of the Cenvat credit Rules, 2004. The Department also noted that the Appellant had taken the Cenvat credit during the period July, 2012 to June,2017 amounting to Rs.2,38,50,562/- in their CENVAT register by reverse calculation from amount paid/payable to the Contractors, but the ST-3 Returns filed by the Appellant for the same period showed the amount as Rs.3,07,51,666/-. The mismatch between the amount shown in ST-3 returns and Cenvat register was not substantiated. Consequently, a Show Cause Notice dated 19.06.2019 was issued to

the Appellant for recovery of Cenvat Credit of Rs.3,07,51,666/- along with applicable interest and alleging penalty under Rule 15 of the Cenvat credit Rules, 2004 read with Section 78 of the Finance Act, 1994. The subject Show Cause Notice was adjudicated by the Commissioner of CGST& Central Excise, Udaipur vide Order-in-Original No. 03/ST/JDR/2019-20/JC dated 28.06.2019, wherein adjudicating authority has disallowed and order to recover the Cenvat Credit Rs.3,07,51,666/- alongwith applicable interest; imposed penalty of Rs.3,07,51,666/- under Section 78 of the Finance Act, 1994. Aggrieved by the said impugned order, the appellant has filed the present appeal before the Tribunal.

3. Learned counsel for the appellant submitted that the demand till September 2016 is barred by the normal period of limitation and the entire Cenvat credit cannot be denied in the impugned order. He submitted that extended period of limitation was not invokable as the Show Cause Notice was issued on 19.6.2019 for the period July 2012 to June 2017. He submitted that the Show Cause Notice had failed to cite any positive act on part of the Appellant to suppress any information. He further stated that it was undisputed that the Appellant had disclosed the availment of Cenvat credit for the relevant period in the ST-3 returns. In fact, the present demand was proposed on the basis of Cenvat credit figures disclosed in the ST-3 returns by the Appellant. Thus, there was no suppression of any facts on the part of the Appellant. Further, mere fact that the appellant was working under self-assessment and the irregularity was detected by the audit,

cannot be the ground to invoke the extended period of limitation. In this regard, learned counsel placed reliance on appellant's own cases:

(i) **Rajasthan Housing Board, Division-X** vs. **Additional Commissioner, Central GST Commissionerate- Jaipur**[2];

(ii) **Rajasthan Housing Board** vs. **Commissioner, CGST-Jodhpur**[3]; and

(iii) **Rajasthan Housing Board** vs. **Commissioner of Central Excise and CGST**[4].

3.1 Learned counsel further submitted that the Appellant had declared the details of Cenvat credit in the ST-3 returns, which were required to be declared as per the bona fide judgment of the Appellant. Thus, the extended period of limitation is not invokable. In this regard, he placed on the following decisions:

(i) **Delhi Airport Metro Express Pvt. Ltd**. vs. **Commissioner of Central Excise & Customs, Haryana**[5];

(ii) **GD Goenka Private Limited** vs. **Commissioner of Central Goods and Services Tax, Delhi South**[6]**;**

(iii) **Ganon Dunkerley & Co. Ltd**. vs. **Commissioner (Adj.) of Service Tax, New Delhi**[7];

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2. 2026-VIL-486-CESTAT-DEL-ST
3. 2025-VIL-1542-CESTAT-DEL-ST
4. 2025-VIL-277-CESTAT-DEL-ST
5. 2024-VIL-45-CESTAT-DEL-ST
6. 2023-VIL-798-CESTAT DEL-ST New Delhi
7. 2021(47) GSTL 35 (Tri.- Del)

(iv) **Uniworth Textiles Ltd.** vs. **Commissioner of Central Excise, Raipur**[8];

(v) **HLS Asia Ltd.** vs. **Commissioner, Service Tax Commissionerate**, **New Delhi**[9]**;** and

(vi) **Commissioner of Central Excise and Customs** vs. **Reliance Industries Limited**[10].

3.2 Learned counsel contended that the present demand had culminated following the audit and all the details and documents were verified by the audit team and all the material information was in the knowledge of the Department. Hence, there can be no question of any mala fide on the part of the Appellant. He placed reliance on the following decisions:

(i) **Shriram Chits Pvt. Ltd.** vs. **Commissioner of Central Excise, Customs & Service Tax, Hyderabad**[11];

(ii) **Birla Corporation Limited** vs. **Commissioner, CGST & Central Excise, Jabalpur (M.P.)**[12]; and

(iii) **Commissioner of Central Excise, Bangalore** vs. **Pragathi Concrete Products (P) Ltd.**[13].

3.3 Learned counsel further contended that there is no provision under the Act which contemplates a procedure for seeking clarification

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8. 2013(288) E.L.T. 161 (S.C.)

9. 2023 (73) G.S. T.L. 539 (Tri. - Del.)

10. 2023 (385) ELT 481

11. 2023(69) GSTL 397 (Tri.- Hyd.) affirmed by Hon'ble Supreme Court in 2023(69) GSTL 338 (S.C.)

12. (2023) 11 Centax 132 (Tri.-Del) affirmed by the Supreme Court in (2023) 11 Centax 133 (S.C.)

13. 2015(322) ELT 819 (SC)

from jurisdictional service tax authority. Hence, mala fide cannot be alleged that the Appellant did not make any correspondence with the Department. In this regard, reliance was placed on the judgment of the Delhi High Court in **Mahanagar Telephone Nigam Ltd. (MTNL)** vs. **Union of India and Ors.**[14]. Learned counsel submitted that the SLP filed by the department was dismissed by Hon'ble Supreme Court in **Union of India** vs. **Mahanagar Telephone Nigam Ltd**[15]. For the reasons above, the demand of Rs.2,92,90,204/- till September 2016 was liable to be set aside as barred by normal period of limitation.

3.4 Learned counsel also stated that with respect to the remaining demand for Cenvat credit of Rs. 14,61,462/- pertaining to the normal period October 2016 to June 2017, the demand was not sustainable on account of the following submissions.

(a) **Cenvat credit of Rs. 5.99,509/- paid during the normal period under reverse charge videGAR-7 challans is admissible to the Appellant**.

Learned counsel submitted that out of the total demand of Rs.3,07,51,666, credit of Rs. 1,14,17,229/-was availed by the Appellant of service tax paid by it on reverse charge basis in respect of works contract services and other input services such as legal services. He submitted that the Cenvat credit of Service tax paid on reverse charge basis through GAR-7 challans was admissible to the Appellant as 'challan' is a prescribed document to avail Cenvat credit in terms of Rule 9(1)(e) of the Credit Rules. He relied on the following decisions:

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14. 2023 (73) G.S.T.L. 310 (Del.)
15. 2024 (388) E.L.T. 141 (S.C.)

(i) **National Engineering Industries Limited** vs. **Commissioner, CGST and Central Excise, Jaipur**[16];

(ii) **IneosStyrolution India Ltd** vs. **C.C.E. & S.T. Vadodara-I**[17], **2022-VIL-188-CESTAT-AHM-ST**; and

(iii) **Nissan Motor India Private Ltd.** vs. **Commissioner of Service Tax, Chennai**[18].

3.5 Learned counsel further stated that for the normal period of limitation from October 2016 to June 2017, the Appellant has paid Service tax of Rs. 5,99,509/- under reverse charge via GAR-7 challans.

(b) The running account bills contain substantial particulars prescribed under Rule 9 of Credit Rules read with Rule 4A of ST Rules. When the transactions are genuine. substantial benefit of Cenvat Credit cannot be denied on procedural infirmities.

3.6 Learned counsel also submitted that the case of the department was based on the premise that running account bills prepared by the Appellant are not prescribed document to avail the Cenvat credit as per Rule 9(1) of Credit Rules, and they do not contain the particulars prescribed under Rule 9(2) of Credit Rules read with Rule 4A of ST Rules. In this regard, he submitted that the Running Account Bills read with the Payment Orders were jointly prepared by the Appellant and the contractors (service providers). The Running Account Bills read with the Payment Orders contain the following particulars:

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16. 2024-VIL-1735-CESTAT-DEL-CE
17. 2024-VIL-1735-CESTAT-DEL-CE
18. 2019-VIL-784-CESTAT-CHE-ST

i. Name and Address of Service Provider.

ii. Details of Service Recipient (Appellant)

iii. Description of service (work carried out by service provider)

iv. Service tax registration no. of the service provider

v. Service tax amount.

3.7 Learned counsel stated that substantial particulars as prescribed under proviso to Rule 9(2) of Credit Rules read with Rule 4A of the Service Tax Rules were mentioned on such running account bills/payment orders, such running account bills together with payment orders should be treated at par with the documents prescribed under Rule 9(1) of the Credit Rules to claim Cenvat Credit. He relied on the following cases wherein it was held that if the essential information required in an invoice is provided in the document, the Cenvat credit cannot be denied merely due to a procedural irregularity:

(i) **Commissioner of Central Excise Jaipur-1, Jaipur** vs. **Bharti Hexacom Ltd.**[19];

(ii) **Patel Air Freight** vs. **Commissioner of C. EX., CUS. & S.T., Hyderabad-II**[20];

(iii) **Hindustan Zinc Ltd.** vs. **Commissioner (Appeals), Central Excise & Central Goods and Service Tax, Jodhpur (Raj)**[21]; and

(iv) **Commissioner of Central Excise, Rohtak** vs. E**.C.E. Industries Ltd.**[22].

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19. 2018(12) G.S. T.L. 123 (Raj.)
20. 2016 (45) S.T.R. 404 (Tri. - Hyd.)
21. 2022-VIL-294-CESTAT-DEL-CE

3.8 Learned counsel further submitted that there was no dispute regarding authenticity of the running account bill/payment orders. It was on the basis of such running bills that the Appellant paid Service tax under RCM to the Government Exchequer. Payment to contractors through banking channels was also made on the basis of these documents, which was also not disputed by the Department. Since Service tax amount was mentioned in the Payment Orders, it was evident that the Appellant had paid the Service tax amount to the Contractors. He further submitted that no dispute had been raised by the department regarding receipt of the input services from the contractors or eligibility to take credit in respect of such input services. Thus, Cenvat credit cannot be denied merely on account of procedural infractions particularly when there is no dispute regarding receipt of services or eligibility of credit. He place reliance on **Rajasthan State Road Development and Construction Corporation Ltd**. vs. **Commissioner, Central Excise & CGST-Jodhpur**[23], wherein this Tribunal allowed the Cenvat Credit to the assessee on the basis of running account bills in similar facts and circumstances. Since the demand was not sustainable, interest was not leviable and penalty was also not imposable. Hence, the demand was liable to be set aside. Learned counsel prayed that the appeal be allowed in full, with consequential relief.

4. Learned authorized representative for the Department reiterated the findings of the given in the Order-in-Original and Order-in-Appeal.

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22. 2017 (49) S.T.R. 573 (Tri. - Del.)
23. Final Order No. 50228/2023 dated 15.2.2023 in Service Tax Appeal No. 51463 of 2022 (SM) -CESTAT Delhi

He submitted that Rule 9(1) of Cenvat Credit Rules, 2004, specifies the documents on which the Cenvat credit shall be availed by the manufacturer or the provider of output service or input service distributor as the case may be. Further, learned authorized representative submitted that as per Rule 9(2) of the Cenvat Credit Rules,2004, the Cenvat Credit cannot be availed unless all the particulars as prescribed under the Service tax Rules, 1994 are contained in the said documents. Learned authorized representative submitted that the appellant had availed Cenvat credit on the strength of running account bills/measurement books prepared by the Engineers of the Appellant and these bills/books were not specified documents under Rule 9(1) of the Cenvat Credit Rules, 2004. As they do not contain details as required under the proviso to rule 9(2) of the Cenvat Credit rules, 2004 read with Rule 4A of the service Tax Rules, 1994, the credit availed was incorrect.

4.1 Learned authorized representative also stated that the burden of proof regarding admissibility of the Cenvat credit lay upon the Appellant as provided in Rule 9(6) of the Cenvat credit Rules, 2004. The appellant had failed to produce any substantial documentary evidence in their support of claim before the adjudicating/Appellate Authority. He also stated that the Appellant had never disclosed the facts to the Department these facts came to the notice of the Department only at the time of Audit. Learned authorized representative submitted that the Appellant was working under self-assessment system and were bound by Service Tax law to correctly assess their service tax liability and admissibility of Cenvat Credit.

4.2 Learned authorized representative contended that the appellant had availed inadmissible CENVAT Credit without having proper documents prescribed by the law. They had willfully suppressed the facts from the department with an intention to evade the payment of service tax. Therefore, the extended period and penalty under section 78/Rule 15 of Cenvat Credit Rules, 2004 was invokable/ imposable. In view of the above, he it is prayed that present appeal may be dismissed.

5. We have heard the learned Counsel for the appellant and the learned authorized representative for the department and perused the records.

6. The issues before us for consideration is as follows:

(i)Whether Cenvat credit can be availed based on running account bills/measurement books?

(ii) Whether extended period of limitation can be invoked?

6.1 We note that the learned Counsel for the appellant has submitted at length regarding the incorrect invocation of the extended period of limitation in the instant case. In the instant case, we find that the appellant is one of the divisions of the Rajasthan Housing Board established under the Rajasthan Housing Board Act, 1970 to deal with housing accommodation in the state. The learned Counsel has relied upon this Tribunal’s decisions in their own case wherein the invocation of the extended period has been set aside. We refer to the

Final Order no. 50319/2026 dated 09.03.2026 in their own case wherein the Tribunal held as follows: -

> "9. From the above, we find that even the Adjudicating Authority has proceeded solely on the ground that the issue has been detected only during the course of audit of records and under the self-assessment procedure, the appellant was required to assess and discharge their duty liability appropriately, which the appellant failed to do. The Adjudicating Authority did not even refer to the pre-requisites for the application of the extended period. In fact, the contents of the above para shows complete non-application of mind by the Adjudicating Authority to the existence of the criteria in terms of the proviso to Section 73(1) of the Act with reference to the facts of the present case. The adjudicating authority have not even considered the fact that the appellant took service tax registration on September 4, 2013 and filed the ST-3 returns for the period July 2012. Hence, there is no question of any suppression or wilful misstatement by the appellant with an intent to evade the payment of tax. It is a settled principle of law that in order to prove any of the basic ingredients for invocation of the extended period, there has to be a positive act of suppression on the part of the appellant with an intent to evade the duty liability. We are, therefore, of the view that the Revenue has not been able to make out any specific case of fraud, collusion, or suppression of facts by the appellant to justify the extended period.
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> 10. It is an admitted position that the appellant is a state instrumentality and no suppression or fraud can be alleged. In the earlier decision in their own case, titled as Rajasthan Housing Board versus 8 Commissioner Central Excise**[2021-VIL-869-CESTAT-DEL-ST],** the learned Single Member taking note of the decision of the Division Bench of the Tribunal in Centre for Entrepreneurship Development versus CCE, Bhopal**[2014-VIL-2339-CESTAT-DEL-ST]** holding that when an institute run by a State Government and associated in implementation of various welfare schemes of the Government, the allegations of suppression of facts or wilful misstatement can be nothing but absurd and, therefore, concluded that there cannot be an intent to evade the payment of tax."

6.2. Similarly, vide Final Order no. 51303-51304/2025, this Tribunal in appellant's own case held as follows: -

> "8. The appellant is contesting the third issue of CENVAT credit taken on ineligible documents only on limitation. The only grounds on which the extended period of limitation was invoked are that the appellant was working under self-assessment and that had the audit not pointed out, the irregularity would have remained undetected. We find that every assessee in service tax works on self-assessment basis. This cannot be ground to invoke extended period of limitation. The ground that had the audit not pointed out, the irregularity would not have come to light is not correct. Had the range officer who received the returns scrutinized them as he could, calling for any documents as he had the power to, what was noticed by the audit would have been noticed by him. Audit has done what the Range officer was empowered to but did not do. At any rate, the fact audit detected the wrong availment of CENVAT cannot be the ground to invoke extended period of limitation."

6.3 Further, we note that that the appellant was registered with the Revenue, and had cooperated during the audit proceedings by furnishing all the details as sought by the audit team. Further, the details of the Cenvat credit availed by the appellant was declared in their ST-3 returns which were filed regularly. The Revenue has not led any evidence to establish that there was any malafide intent to evade duty. Further, it is an admitted fact that the appellant is a state instrumentality, and consequently no suppression or fraud can be alleged. In view of the above discussions, we hold that the demand for the extended period cannot be sustained.

7. As regards the demand for the normal period, we note that the learned Counsel has submitted that a part of the said credit was availed on the service tax paid on reverse charge basis. In the instant

case, it is noted that service tax on reverse charge was paid by the appellant on GAR-7 challans which is a prescribed document as per Rule 9(1)(c) of the Cenvat Credit Rules, 2004. We note that the impugned order has not given any specific finding on the admissibility of the credit on such Gar-7 challans. Hence, we hold that such credit availed by the appellant on Gar-7 challans is correct.

8. We now address the issue of availing credit on running account bills. The learned Counsel has submitted that the Running Account Bills read with Payment Orders gives the following details, viz., name and address of the service provider, Details of service recipient, Description of service, Service Tax registration of the service provider, service tax amount. The substantial particulars as required under Rule 9(2) of the Cenvat Credit Rules read with Rule 4A of the Service Tax Rules, 1994 were available and should be treated on par with the invoices. We note that the Cenvat Credit Scheme was introduced to remove the cascading effect of taxes. The basic tenet of the said scheme is that whenever service tax/excise duty is paid, and there is further provision of services, the credit of such taxes paid on inputs and input services is available as credit. In the instant case, we note that there is no dispute that such input services were received and service tax was paid on such provision of services. Once such payment is not in dispute, denial of credit cannot be sustained. In this context, we note that in **Commissioner of Central Excise** vs. **Graphite (I)**[24], Cenvat credit on basis of 'cash memo' was held as admissible. The Tribunal in the said case observed that hyper technicalities should not be made to

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24. (2007) 212 ELT 54 (CESTAT -SMB)

disallow Cenvat credit. Similarly, in the context of availing credit on Debit Note cum Bill, the Tribunal in **Commissioner of Central Excise** vs. **Gwalior Chemicals[25],** held that Cenvat credit can be taken on basis of document title 'Debit Note cum Bill'. The Tribunal noted that the words used in rule 4A(1) of Service Tax Rules are 'invoice, challan or Bill'. Rule 11 of Central Excise Rules specified the document as 'Invoice'. This indicated that in case of Service Tax, specific nomenclature was not essential. In fact, the Tribunal noted that first and second proviso to rule 4A(1) uses the term 'any document, by whatever name called'. Thus, the Tribunal held that the rules envisage flexibility in nomenclature depending on trade and business practices. Different practices are followed in different trades. Nomenclature can vary from trade to trade or business to business. Further, we note that as per rule 5(1) of Service Tax Rules, the records maintained by assessee including computerized data maintained by assessee in accordance with various other laws are acceptable. Thus, private documents maintained in normal course of business are acceptable. No special records or registers or change in business practices are envisaged. This also clearly, indicates that law does not envisage that trade should change its normal practices.

9. In view of the foregoing discussions, we hold that the Cenvat credit availed by the appellant on such Running Account Bills read with the Payment orders is correct. We also draw support from this Tribunal's decision in **Rajasthan State Road Development and Construction Corporation Ltd**. vs **Commissioner of C.Ex & CGST,**

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25 . (2011) 274 ELT 97 (CESTAT SMB)

Jodhpur[26], wherein this Tribunal allowed Cenvat credit n such running bills. The relevant para is reproduced hereinafter:-

> "9. Having considered the grounds of appeal and on perusal of the case records, I find that it is not in dispute that the appellant PSU have prepared the running bills as per the norms prescribed by the State Government. I further find that it is not disputed that such running bills are not genuine, or payment to the service provider/contractor have not been made as per the running bills, after adjustment of various if any like Income Tax at source, Vat at source, security deposit, etc etc. I further find that it is a case of failure to exercise jurisdiction by the court below in verifying the genuineness of the transaction and allowing the credit accordingly, wherein in Rule 9(2) of CCR read with proviso it has been prescribed that-where a document does not contain all the particulars but contains substantial particulars, inter alia details of service tax payable, description of service etc. The assessing officer on being satisfied that the goods on services covered by the said documents have been received and accounted for in the books of account of the receiver, he may allow the Cenvat credit. I find that there is no such contrary finding in the orders of the court below as regards non-receipt of service or the Cenvat credit taken being sham or fake."

10. In view of the above discussions, we set aside the impugned order and allow the appeal with consequential relief, if any.

(*Order pronounced on* **25.05.2026**)

(BINU TAMTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Archana

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26. Final Order No.50228/2023, dated:15.02.2023