

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

EXCISE APPEAL NO. 51899 OF 2025

[Arising out of Order in Appeal No. 131(GS)CE/JPR/2025 dated 26.09.2025 passed by the Commissioner (Appeals), Customs, Central Excise, Service Tax and CGST, Jaipur]

**HONDA MOTORCYCLE AND SCOOTERS
INDIA PVT LTD**

.....APPELLANT

Plot No. 2 (D), 2(E), 2(G),
Tapukara Industrial Area, Tapukara
Dist. Alwar-301707 (Rajasthan)

Vs.

**PRINCIPAL COMMISSIONER OF CENTRAL
EXCISE AND CGST-ALWAR**

.....RESPONDENT

A Block, Surya Nagar,
Alwar, Rajasthan-301001

Appearance:

Present for the Appellant : Ms. Deepali and Shri Shivam Bansal, Advocates

Present for the Respondent: Shri V.J. Saharan, Authorised Representative

CORAM:

HON'BLE MR. P.V.SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 51000 /2026

DATE OF HEARING/DECISION : 26/05/2026

P.V. SUBBA RAO:

1. M/s Honda Motorcycle and Scooters India Pvt Ltd.¹ filed this appeal to assail the order in appeal dated 26.09.2025 passed by the Commissioner (Appeals), Jaipur in which he upheld the order of the Assistant Commissioner, Alwar dated 28.04.2022 deciding the proposals in the show cause notice dated 07.05.2018 covering the

1 Appellant

period April 2016 to March, 2017 issued to the appellant. The Assistant Commissioner had, ordered recovery of an amount of Rs. 22,59,597/- as ineligible CENVAT credit under Rule 6(1) of CENVAT Credit Rules, 2004² read with section 11A of the Central Excise Act, 1994³ along with interest under section 11AA of the Act. He also imposed penalty of an equal amount under section 11AC of the Act read with Rule 15(1) of the CCR.

2. I have heard learned counsel for the appellant and the learned authorized representative for the revenue and perused the records.

3. The appellant manufacturer scooters and motorcycles and their parts and pays excise duty on them. During manufacture, waste and scrap in the form of metal scrap, bio compost, spent solvent, aluminum dross, used lubricating oil, etc. arise which the appellant sold for a consideration. The CCR enable the assessee to avail cenvat credit on the "input" and "input service" used in or in relation to manufacture of excisable goods and /or providing taxable services. No CENVAT credit is admissible on the inputs/ input services used in or in relation to manufacture of exempted goods as per Rule 6(1) of the CCR. An explanation was added to this Rule on 01.03.2015 to the effect that the term "exempted goods" also includes "non-excisable goods".

4. The case of the Revenue in the show cause notice and in the orders passed by the lower authorities is that the appellant had manufactured waste and scrap which was exempted as above which it

2 CCR
3 Act

sold for a consideration and, therefore, in terms of Rule 6(1) of the CCR read with the Explanation, it is required to reverse proportionate amount of CENVAT credit.

5. The case of the appellant is that Rule 6(1) of the CCR would only apply to cases where exempted goods are manufactured which term also includes non-excisable goods. Waste and scrap as discussed above were never manufactured by the appellant and they only arose in the process of the manufacture of final products. Therefore, Rule 6(1) of CCR would not apply to this case and the appellant was not required to reverse proportionate amount of CENVAT credit. Learned counsel for the appellant prays that the appeal may be allowed and the impugned order may be set aside.

6. She further submits that an identical issue in respect of the same appellant in Excise Appeal No. 51624 of 2018 was decided in favour of the appellant by a Division Bench of this Tribunal by Final Order No. 53567/2018 dated 20.11.2019.

7. Learned authorized representative for the Revenue vehemently supported the impugned order and asserted that as the appellant was producing waste and scrap which was either exempted or was not excisable it was legally bound to reverse the proportionate amount of CENVAT credit and the appellant failed to do so. After the insertion of the Explanation to Rule 6(1), there can no manner of doubt that this Rule would apply not only to exempted goods but also to non-excisable goods. Therefore, the impugned order is correct and proper and needs to be upheld. Regarding the previous order of this Tribunal

in respect of the same appellant on the same question, learned authorized representative submits that the department did not appeal against that order only on monetary grounds, therefore, that order should not bind this court from decided the matter afresh and taking a fresh look at it. He asserted that very manufacturing process which produces the final product also results in production of waste and scrap and, therefore, it cannot be said that they were not manufactured.

8. I have considered the submissions advanced by both sides and perused the records.

9. Waste and scrap is never manufactured by any manufacturer. It is not even a byproduct. It arises in the course of manufacture of the final product. Sometimes when the main product is manufactured, a byproduct may also be manufactured along with it such as the manufacture of molasses along with manufacture of the sugar which is the main product. Waste and scrap fall under a different category altogether. Nobody manufactures waste and scrap just as nobody produces waste paper in any office. In the course of manufacture of the final product waste and scrap arise. Metal scrap, for instance, arises when a piece of metal is ground into a particular part or a sheet is cut to make a particular part. Similarly when solvents are used in the process of manufacture what comes out is a spent solvent. Even if it is as marketable, it cannot be said to have been manufactured. Spent Solvent is not manufactured anymore than waste water is produced in the kitchen of any household. No household has any intention of producing waste water. It only arises

in the course of the cooking cleaning and washing. Similarly, used lubricating oil, aluminum dross, bio-compost etc., are all wastes which arise in the course of manufacture of the final product. Rule 6(1) of the CCR only deals with cases where the same inputs are used for manufacture of dutiable and exempted goods and it does not cover those cases where some input have gone into the waste and scrap which is generated. In view of the above, respectfully following the decision of the Division Bench dated 20.11.2019 in respect of the same appellant, I set aside the impugned order and allow the appeal. Appellant will be entitled to the consequential relief.

(Order pronounced in open court)

(P.V.SUBBA RAO)
MEMBER (TECHNICAL)

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