CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – I

Excise Appeal No. 55463 of 2023

[Arising out of Order-in-Original No. 21/PR. Commr/ST/IND/2022-23 dated 31.3.2023 passed by the Principal Commissioner CGST & Central Excise, Indore.]

M/s. Godawari Power & Ispat Ltd. **... Appellant**
Plot No. 428/2, Phase-I, Industrial Area, Siltara,
Raipur (C.G.) 493 111

VERSUS

Principal Commissioner **... Respondent**
Central Goods & Service Tax,
Central Excise & Customs,
Manik Bagh Palace,
Post Box No. 10,
Indore (M.P.) 452 014

APPEARANCE:

Shri Krishna Mohan K. Menon and Ms. Prerna Jain Kala, Advocates for the Appellant
Shri S. K. Ray, Authorised Representative for the Revenue

CORAM:
HON'BLE MR.JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

DATE OF HEARING : 02.06.2026
DATE OF DECISION :05.06.2026

FINAL ORDER NO. 51033/2026

P V SUBBA RAO

M/s. Godawari Power and Ispat Ltd.[1] filed this appeal to assail the Order dated 31.3.2023[2] passed by the Commissioner deciding the proposals in the show cause notice dated 1.5.2015[3] and confirmed denial and recovery of Rs. 2,41,33,025/- of CENVAT credit taken by the appellant during 2010-2011 to 2014-2015. The demand was confirmed under Rule 14 of CENVAT

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1. **The appellant**
2. **Impugned order**
3. **SCN**

Credit Rules, 2004[4] read with section 11A(1)/11A(5) of the Central Excise Act, 1944[5] read with Section 174 of the CGST Act, 2017. An equal amount was imposed as penalty under Rule 15 of CCR read with section 11AC(1) (b) of the Act read with section 174 of the CGST Act.

2. We have heard both sides and perused the records.

3. The undisputed facts are that the appellant was registered with the central excise department and was manufacturing steel and steel products and was paying central excise duty and filing returns. It was also availing CENVAT credit on the inputs and input services used by it. The appellant had captive mines from which the ore was extracted and used in its factory to manufacture the final products. The mines were treated as extension of the factory and CENVAT credit of the inputs and input services used in the mines was also allowed.

4. During audit of the appellant's records, it was found that the appellant had used services to handle, transport and crush the ore in the mines and after removing the debris and unnecessary material, the ore was transported to the factory of the appellant and used in the manufacture of final product. In the process, about 15% of the total ore was discarded in the mine itself and the rest which is useful was transported to the factory and used in manufacture of the final product.

5. Audit felt that the CENVAT credit of the service tax paid on the input services in handling, transporting and crushing ore in the mines can be allowed only to the extent the ore was transported to and used in the factory. To the extent they were used in the material which was discarded in

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4. CCR
5. Act

the mine itself, the appellant was not, according to the audit, entitled to take CENVAT credit because that portion of the service was not input service as per Rule 2(l) of the CCR.

6. Accordingly, the SCN was issued and the demands were confirmed with interest and penalty.

7. Learned counsel for the appellant contested the impugned order both on merits and on limitation. He further contested the imposition of penalty.

8. We proceed to examine the issue on merits because if we find it in favour of the appellant, it may not be necessary to examine the other submissions with respect to limitation, interest and penalty.

9. The finding on this issue in paragraph 23 of the impugned order is reproduced below:

> *"…. Since the quantity of iron ore shown as losses during crushing has not been received and has not gone into the process of production, the quantity of iron ore is not input for them and the corresponding portion of the crushing charges including mining, handling, loading service attributable to the said quantity cannot be considered as 'input service' for the Noticee. Thus the Noticee is not entitled for the credit of service tax involved in that much quantity of iron ore which is not received in the factory and consequently has not been used in the manufacture of Excisable goods.*
>
> *Held accordingly."*

10. We find that the definition of input service in Rule 2(l) of the CCR is as follows:

> *Rule 2 (l) "**input service" means any service**, -*

(i) used by a provider of output servicefor providing an output service; or

(ii) ***used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal,***

and includes services used in relation to modernisation, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal;

but excludes, -

(A) service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act (hereinafter referred as specified services) in so far as they are used for -

(a) construction or execution of works contract of a building or a civil structure or a part thereof; or

(b) laying of foundation or making of structures for support of capital goods, except for the provision of one or more of the specified services; or

(B) services provided by way of renting of a motor vehicle], in so far as they relate to a motor vehicle which is not a capital goods; or

(BA) service of general insurance business, servicing, repair and maintenance, in so far as they relate to a motor vehicle which is not a capital goods, except when used by -

> *(a) a manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person;*
> *or*
> *(b) an insurance company in respect of a motor vehicle insured or reinsured by such person; or*

(C) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee;

Explanation. - For the purpose of this clause, sales promotion includes services by way of sale of dutiable goods on commission basis.

11. As can be seen this definition has three parts- the 'means' part of the definition, the 'includes' part of the definition and the 'excludes' part of the definition. The means part of the definition is the main part whose scope is further enlarged by the includes part and then restricted by excludes part of the definition. It is not the case of either side that the issue in dispute falls within the 'includes' or 'excludes' part of the definition.

12. The 'means' part of the definition, insofar as it relates to manufacturers means ***any service used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal.*** There is no dispute that the appellant is a manufacturer. However, the term 'manufacture' is not defined in the CCR. Rule 2(t) of the CCR reads as follows:

> *(t)* ***words and expressions used in these rules*** *and not defined but defined in the Excise Act or the Finance Act* ***shall have the meanings respectively assigned to them in those Acts****.*

13. Therefore, we must refer to the Act to understand the meaning of 'manufacture'. Section 2(f) of the Act defines manufacture as follows:

> *2. Definitions.— In this Act, unless there is anything repugnant in the subject or context,—*
>
> *(f)* ***"manufacture" includes any process****—*
>
> *(i)* ***incidental or ancillary to the completion of a manufactured product****;*
>
> *(ii) which is specified in relation to any goods in the Section or Chapter Notes of the Fourth Schedule as amounting to manufacture;or,*
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> *(iii) which, in relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer;*

and the word "manufacturer" shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account;

14. Thus, the term 'manufacture' in both the Act and the CCR includes any process incidental or ancillary to manufacture. Therefore, the scope of the 'input service' is not only services used in manufacture but also in processes incidental or ancillary to it. It is further enlarged to with expressions 'directly or indirectly' and 'in or in relation to'. Thus, a service qualifies as input service, if:

a) it is directly used in manufacture;
b) it is directly used in process incidental or ancillary manufacture;
c) it is indirectly used in (a) or (b) above; or
d) it is used in relation to (a), (b) or (c) above.

15. The scope of the definition of 'input service' is wide and unless any service is restricted by the exclusion clause of the definition of 'input service', any service which is used as above qualifies as 'input service'.

16. When Michelangelo was asked as to how he created such beautiful sculptures, he famously said that they were already there and he only removed the excess marble. Similarly, when an ore is mined and crushed or an article is cut, ground or polished, the excess material is removed. Until the advent of the modern 3-D printing techniques which manufacture goods through accretion of material, almost all manufacturing was based on removal of excess or unwanted material or re-shaping the material. A casting, for instance, is heated and forged by hitting it repeatedly into the desired shape and removing unnecessary material which is then subject to grinding to further remove unnecessary material which is followed by further

processes of removing material such as lapping and honing till the final usable part is made. At every stage of manufacture, some material is removed.

17. The Commissioner's finding in the impugned order is that only some portion of the ore after removal of the debris and other discarded material reached the factory of the appellant and was used as input and therefore, crushing of the mined ore and handling it is also, an "input service" only to this extent. This reasoning is not correct. What needs to be seen is the process which has been undertaken through the service and whether it is directly or indirectly and in or in relation to manufacture of the final product. The scope of the expression "directly or indirectly in or in relation to manufacture" is very wide as discussed above. We cannot countenance a situation where without crushing the mined ore and discarding the unnecessary, material the manufacture of the final goods can take place.

18. Therefore, the impugned order cannot be sustained on merits. Consequently, the interest and penalty also cannot be sustained. The appeal is allowed and the impugned order set aside. The appellant will be entitled to consequential relief, if any.

(Order pronounced in open court on 05/06/2026.)

(JUSTICE DILIP GUPTA)
PRESIDENT

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

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