

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH – COURT NO. – III

Excise Appeal No. 50001 of 2026 (SM)

[Arising out of Order-in-Appeal No. 109(GS) CE/JPR/2025 dated 25.8.2025 passed by the Commissioner (Appeals) Customs, Central Excise, Service Tax and CGST, Jaipur]

M/s. Tata Bluescope Steel (P) Ltd. **... Appellant**
Plot No. 298-299, RIICO Industrial Area,
Chopanki, Bhiwadi
Alwar – 301 019.

VERSUS

Commissioner of CGST **... Respondent**
20, Sudarshapura Industrial Area,
22 Godam,
Jaipur – 302 005.

WITH

Excise Appeal No. 50002 of 2026 (SM)

[Arising out of Order-in-Appeal No. 117(GS) CE/JPR/2025 dated 28.8.2025 passed by the Commissioner (Appeals) Customs, Central Excise, Service Tax and CGST, Jaipur]

M/s. Tata Bluescope Steel (P) Ltd. **... Appellant**
Plot No. 298-299, RIICO Industrial Area,
Chopanki, Bhiwadi
Alwar – 301 019.

VERSUS

Commissioner of CGST **... Respondent**
20, Sudarshapura Industrial Area,
22 Godam,
Jaipur – 302 005.

AND

Excise Appeal No. 50003 of 2026 (SM)

[Arising out of Order-in-Appeal No. 110(GS) CE/JPR/2025 dated 21.8.2025 passed by the Commissioner (Appeals) Customs, Central Excise, Service Tax and CGST, Jaipur]

M/s. Tata Bluescope Steel (P) Ltd. **... Appellant**
Plot No. 298-299, RIICO Industrial Area,
Chopanki, Bhiwadi
Alwar – 301 019.

VERSUS

Commissioner of CGST **... Respondent**
20, Sudarshapura Industrial Area,
22 Godam,
Jaipur – 302 005.

APPEARANCE:

Shri Udit and Shri Ashish Jain, Advocates for the Appellant
Shri Ram Pravesh Prasad, Authorised Representative for the Revenue

CORAM:

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

DATE OF HEARING :29.05.2026
DATE OF DECISION: 01.07.2026

FINAL ORDER NO. 51119-51121/2026

P V SUBBA RAO

M/s. Tata Bluescope Steel (P) Ltd.¹ filed these three appeals to assail the orders passed by the Commissioner (Appeals) upholding the orders of the Assistant Commissioner and rejecting the appellant's appeals.

2. I have heard learned counsel for the appellant and the learned authorised representative for the Revenue and perused the records. The following two short issues are involved in these three appeals:

Excise Appeal No. 50001 of 2026

(a) Demand of an amount of 7% of the job work charges which the appellant had received for manufacturing goods for Pro-tech Enterprises (the principal) under Rule 6(3)(i) of the CENVAT Credit Rules, 2004². The appellant had manufactured the goods for the principal as a job-worker and the goods were cleared without payment of duty under Notification No. 214/86-CE which allowed duty free clearance if the principal executed a bond agreeing to pay the duty.

Excise Appeal No's. 50002 of 2026 and 50003 of 2026

(b) Demand of an amount of 6 % of the value of waste and scrap (such as wooden pallets, PVC pipes, iron strips, HDPE sheets, etc.) which the appellant had under Rule 6(3) (i) of the CENVAT Credit Rules, 2004³

Submissions on behalf of the appellant

3. Learned counsel's submission with respect to the first issue is that the same activity which was considered as manufacture by the department and excise duty exemption was granted under Notification No. 214/86-CE cannot

1. The appellant
2. CCR
3. CCR

also be called an exempted service to demand an amount under Rule 6(3) (i) of CCR.

4. His further submission is that the appellant had not taken any CENVAT credit on any inputs or input services used exclusively for the goods which it manufactured as a job worker of Pro-tech. As for the common input services, the appellant had also reversed an amount determined under Rule 6(3A) of the CCR. Therefore, further demand under Rule 6(3) cannot be sustained.

5. As far as the waste and scrap is concerned, it is the submission of the learned counsel that these only arise in the course of manufacture of the final product or as packing materials of the inputs. The appellant had not manufactured any waste and scrap. Therefore, even though waste and scrap were not chargeable to duty and no duty was paid, they cannot be considered as manufacture of exempted goods. Therefore, demand of an amount under Rule 6(3) (i) cannot be sustained.

Submissions on behalf of the Revenue

6. Learned authorised representative for the Revenue vehemently supported the impugned order and asserted that it calls for no interference. As far as the first issue, is concerned, he asserted that the appellant had rendered a service to M/s. Protech and received a consideration for the service. Undisputedly, no service tax was paid on this service as it was not taxable.

7. The CCR enable an assessee (whether manufacturer or service provider) to avail credit of excise duty paid on inputs and service tax paid on input services which are used in or in relation to the manufacture of

excisable goods or providing taxable services. In order to avail CENVAT credit, the assessee has to fulfil its obligations under Rule 6 of the CCR which gives various options – Rule 6(1) provides that no CENVAT credit shall be taken on the inputs and input services for exempted goods or non-taxable services; Rule 6(2) provides that if both dutiable and exempted goods manufactured or taxable and non-taxable services are provided, separate accounts should be maintained; and if neither Rule 6(1) nor Rule 6(2) is followed, Rule 6(3) provides an option to pay an amount as a percentage of the value of the exempted goods or non-taxable service or to reverse CENVAT credit proportionately under Rule 6(3A).

8. The appellant had not maintained separate records as per Rule 6(2) and had also not intimated to the department that it was following the method under Rule 6(3A) and hence it was bound to pay an amount equal to 7% of the value of the exempted services which it had rendered.

9. The reasons for not accepting the contention of the appellant that it had paid an amount under Rule 6(3A) have been explained by the Commissioner (Appeals) in the impugned order. It calls for no interference.

10. Similarly, the appellant was not entitled to avail CENVAT credit on the exempted goods which it had cleared which includes any waste and scrap. The appellant was required to pay amount equal to 6% under Rule 6(3) as the appellant had not followed Rules 6(1), 6(2) or 6(3A). This decision also calls for no interference.

Findings

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

12. As far as the manufacture of the goods on job work basis is concerned, undisputedly, the department considered it as manufacture and allowed clearance of the goods under Notification No. 214/86-CE which permits the job worker to clear the goods without paying duty if the Principal undertakes to pay duty. The same activity which is treated as a manufacture cannot also be treated as an exempted service to demand an amount of 7% of the job charges under Rule 6(3) (i).

13. It is also to be noted that according to the appellant, it had reversed an amount under Rule 6(3A) which fact is not disputed by the Revenue. This reversal was not accepted as fulfilment of the obligation under Rule 6 for the reason that no option was given by the appellant to the Superintendent. This, in my considered view is a technical requirement and if the amount has undisputedly been reversed, it is not open to the department to again charge another amount under Rule 6(3).

14. Viewing it from any angle, the demand of an amount equal to 7% of the job charges under Rule 6(3) from the appellant cannot be sustained. Accordingly, Excise Appeal No. 50001 of 2026 deserves to be allowed and the order impugned therein needs to be set aside.

15. As far as the demand under Rule 6(3) (i) in respect of the waste and scrap is concerned, the demand was on the ground that no CENVAT credit is available on the inputs which go into the manufacture of exempted goods as per Rule 6(1) and further the term 'exempted goods' includes 'non-excisable goods' as per explanation 1 to the Rule. It reads as follows:

6. Obligation of manufacturer of dutiable and exempted goods and provider of taxable and exempted services.

- (1) **The CENVAT credit shall not be allowed on such quantity of input as is used in or in relation to the manufacture of exempted goods or for provision**

of exempted services or input service as is used in or in relation to the manufacture of exempted goods and their clearance upto the place of removal or for provision of exempted services and the credit not allowed shall be calculated and paid by the manufacturer or the provider of output service, in terms of the provisions of sub-rule (2) or sub-rule (3), as the case may be :

Provided that the CENVAT credit on inputs shall not be denied to job worker referred to in rule 12AA of the Central Excise Rules, 2002, on the ground that the said inputs are used in the manufacture of goods cleared without payment of duty under the provisions of that rule.

Explanation 1. - **For the purposes of this rule, exempted goods or final products as defined in clauses (d) and (h) of rule 2 shall include non-excisable goods** cleared for a consideration from the factory.

Explanation 2. - Value of non-excisable goods for the purposes of this rule, shall be the invoice value and where such invoice value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Excise Act and the rules made there under.

Explanation 3. For the purposes of this rule, exempted services as defined in clause (e) of rule 2 shall include an activity, which is not a 'service' as defined in section 65B(44) of the Finance Act, 1994.

Explanation 4. Value of such an activity as specified above in Explanation 3, shall be the invoice/agreement/contract value and where such value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Finance Act, 1994 and the rules made thereunder.

.....

(3) (a) A manufacturer who manufactures two classes of goods, namely :-

- (i) non-exempted goods removed;
- (ii) exempted goods removed; or

(b) a provider of output service who provides two classes of services, namely:-

- (i) non-exempted services;
- (ii) exempted services,

shall follow any one of the following options applicable to him, namely

(i) pay an amount equal to six per cent. of value of the exempted goods and seven per cent. of value of the exempted services subject to a maximum of the sum total of opening balance of the credit of input and input services available at the beginning of the period to which the payment relates and the credit of input and input services taken during that period; or

(ii) pay an amount as determined under sub-rule (3A):

.....”

16. There is no dispute that the waste and scrap cleared by the appellant was exempted from payment of duty. There is also no dispute that even if the goods were not excisable, they should be considered as exempted goods.

17. The next question is whether the inputs were used to manufacture waste and scrap which raises the more fundamental question as to whether waste and scrap can be said to have been manufactured. In my considered view, waste and scrap are not manufactured by any factory but they simply arise in the course of manufacture of the final product. Waste and scrap cannot even be called by products or joint products. Waste is like the waste water generated in a house. Nobody intends to generate waste water. It only arises in the course of cooking, washing or cleaning. Similarly, waste and scrap get generated in the manufacture of the final product and they may be even saleable. However, to fall within the mischief of Rule 6(1), the goods must be not only exempted (or non-excisable) but they should also be manufactured.

18. As no waste or scrap was manufactured by the appellant using the inputs/input services, Rule 6(1) will not apply to waste and scrap. Therefore, the demand under Rule 6(3) (i) cannot be sustained. Therefore, the orders impugned in Excise Appeal No. 50002 of 2026 and Excise Appeal No. 50003 of 2026 cannot be sustained.

19. In view of the above all three appeals are allowed and the orders impugned therein are set aside with consequential relief to the appellant.

(Order pronounced in open court on 01/07/2026.)

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

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