CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 88234 of 2025

(Arising out of Order-in-Appeal No. RL/CGST/COMMR/A-III/MUM/67/2025-26 dated 18.08.2025 passed by the Commissioner of CGST & Central Excise (Appeals-III), Mumbai.)

YRF Studios **.... Appellants**
5, Shah Industrial Estate, Veera Desai Road
Andheri (West),
Mumbai – 400 053.

Versus

Commissioner of CGST & Central Excise **.... Respondent**
Mumbai West Commissionerate
BSNL Administrative Building, Juhu Dana Telecom Complex
Juhu Tara Road, Santacruz (West)
Mumbai – 400 054.

APPEARANCE:

Shri. Sameer K. Sonawane, Chartered Accountant for the Appellants

Shri Dhananjay Dahiwale, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85896/2026

Date of Hearing: 01.04.2026
Date of Decision: 16.07.2026

Per: M.M. Parthiban

This appeal has been filed by M/s YRF Studios, Mumbai (herein after referred to, for short, as "the appellants") assailing the Order-in-Appeal No. RL/CGST/COMMR/A-III/MUM/67/2025-26 dated 18.08.2025 (hereinafter referred to, for short, as "the impugned order") passed by the Commissioner of CGST & Central Excise (Appeals-III), Mumbai.

2.1 The brief facts of the case are that the appellants herein are *inter alia*, primarily engaged in the business of renting of its state of art studio for the purpose of film production and sound recording, besides provision of other taxable services viz., sound recording studio or agency service, business support service, video production agency/video tape production agency service. For the purpose of payment of service tax and for compliance with the service tax statute, the appellants are registered with jurisdictional Service Tax authorities holding Service Tax registration No. AAAAY0557FST001. The appellants are eligible to avail CENVAT credit of duties inputs, capital goods and service tax paid on input services received/ used by them for providing output services in terms of CENVAT Credit Rules, 2004 (CCR).

2.2 During the course of EA-2000 audit of accounts of the appellants for the period October, 2014 to June, 2017, the departmental authorities have noticed that the CENVAT credit availed by the appellants in respect of 'RCC column strengthening' by means of a steel plate covering, using anchor fasteners, is in relation to works contract service of original work, for which the service provider has paid service tax by taking abatement and therefore taking CENVAT credit on such input service is ineligible in terms of exclusion clause under Rule 2(l) of CCR, 2004. The department had initiated show cause proceedings for demand of CENVAT credit by issue of Show Cause Cum Demand Notice (SCN) dated 16.03.2020 for recovery of wrongly availed and utilized CENVAT credit under Section 73(1) of the Finance Act, 1994 read with Rule 14 of the CENVAT Credit Rules, 2004 along with applicable interest and for imposition of penalty under Rule 15(3) ibid and Section 77, 78 of the Act of 1994. The said SCN dated 16.03.2020, was adjudicated upon by the original authority in passing an Order-in-Original dated 28.06.2024, wherein he had disallowed/denied the CENVAT credit amounting to Rs.3,05,114/- availed during the disputed period and ordered for its recovery along with interest under Section 73(2) of the Finance Act, 1994. The original authority also imposed penalty of Rs. 3,05,114/- under Section 78 of the Act of 1994 read with Rule 15(3) of the CENVAT Credit Rules, 2004. Being aggrieved with the original order, the appellants had preferred an appeal before the Commissioner (Appeals), CGST & Central Excise, Mumbai-III, who had rejected the appeal filed by the appellants and upheld the order of the lower authority. Feeling not satisfied with above Order-in-Appeal dated 18.08.2025, the appellants had preferred this appeal before the Tribunal.

3.1 Learned Chartered Accountant appearing for the appellants has submitted that the appellants have undertaken repair and renovation of their existing studio facilities, by undertaking (i) RCC column strengthening of main studio buildings-I and II, at all floor levels; (ii) RCC column strengthening of audio wing at all floor levels (iii) erection and fixing of decking sheets for refurbishing and strengthening of slab of main studio and audio buildings. Since these are in the nature of work undertaken for repairs and maintenance of their existing studio facilities, the learned Chartered Accountant submitted that these are eligible to be considered as 'input service' under the inclusive category specified under Rule 2 (l) of the CENVAT Credit Rules, 2004, and the appellants have rightly taken credit in respect of service tax paid thereon. He further stated that the exclusion under Rule 2(k) is only in respect of duty paid on inputs used for construction of works contract, and since they have taken only in respect of tax paid on service portion, such denial of CENVAT credit is incorrect. He also stated that CENVAT Credit availed in respect of the above services is not excluded under clause (iii) of rule 2(l) of CCR, 2004. In support of their stand, he produced copy of the Chartered Accountant's Certificate dated 26.06.2024 stating that the disputed value of services of an amount of Rs.57,20,892/- involving service tax payment of Rs.3,05,114/- have been duly accounted under the sub-heading 'Repairs and Maintenance-Building'.

3.2 Further, he submitted that the allegation of suppression in not sustainable as the complete details have been furnished in their statutory returns and the entire basis of the SCN is based on the information disclosed in their statutory records. Thus, he claimed that demand of tax by invoking extended period and imposition of penalty is not sustainable.

3.3 In this regard, Learned Chartered Accountant he relied upon the decisions in the following cases:

(i) *Reliance Industries Ltd. Vs. Commissioner of Central Excise & Service Tax, Rajkot* – 2022-VIL-281-CESTAT-AHM-CE

(ii) *Commissioner of Central Excise & Customs Vs. Reliance Industries Limited* – 2023-VIL-59-SC-CE

(iii) *Jai Balaji Industries Limited Vs. Commissioner of Central Excise & Service Tax, Durgapur*-2022-VIL-571-CESTAT-KOL-CE

Thus, he claimed that the impugned order is not sustainable.

4. Learned Authorised Representative (AR) appearing for the department, on the other hand, reiterated the findings of the authorities below, and submitted that the input credit availed in respect of repair and maintenance since involved works contract service, it is specifically excluded under Rule 2(k) and also under Rule 2(l) of CCR. Hence, he claimed that there is no merit in the appeal filed by the appellants and the same is liable to be dismissed.

5. Heard both sides and perused the records of the case. I have examined the submissions advanced by the learned Chartered Accountant appearing for the appellants and the learned Authorized Representative of the Department. Further, I have also perused the additional written submissions in the form of paper books submitted in this case.

6. The issue involved in this appeal is to decide about the eligibility to avail the CENVAT Credit on the input service viz., "RCC Cloum strengthening' undertaken by the appellants in relation to repair and maintenance of buildings, in terms of legal provisions under the CENVAT Credit Rules, 2004.

7.1 It is a fact on record that during the course of EA-2000 audit on the records of the appellants and on perusal of CENVAT documents like copies of input invoices, CENVAT register, it was noticed by the audit team of officers that the appellants had availed CENVAT credit on services, which are utilised for 'RCC Column Strengthening', and the same were objected to as not eligible on the ground that the said services were not qualified as 'input services' in terms of Rule 2(l) of the CCR, 2004. Therefore, audit wing of the department vide letter F. No. GST/Audit-III/Gr.21/YRF-Studios/14/2018, dated 19.09.2019, *inter alia*, had requested the appellants to reverse/ pay the aforesaid irregular CENVAT credit, along with interest. Further, learned Commissioner (Appeals) had recorded in the impugned order for his inability to verify the documentary evidence and for coming to such a conclusion at paragraph 14 as follows:

> *"14. I find that the appellants have submitted their grounds of appeal as discussed above….The appellant has not provided any cogent evidence, financial statements, P&L accounts, related Audit Report, agreement/s made with service provider or even the copies of invoices under dispute for verification. In absence of relevant information/ document/ evidence, it is not possible to verify the facts to arrive at any conclusion in favour of the appellant."*

However, on perusal of the SCN dated 16.03.2020, the details of four invoices have been provided at paragraph 2 and the same has also been mentioned as one of the relied upon document at paragraph 13. Therefore, the findings of the learned Commissioner (Appeals) is incorrect and on this ground alone the impugned order is liable to be set aside.

7.2 On perusal of the details submitted by the appellants, more particularly invoices No. FE-95/YRF-04/15-16, FE-95A/YRF-04/15-16, FE-95B/YRF-04/15-16 and FE-96/YRF-05/15-16 all dated 07.11.2015, it is clear that the service tax has been paid on disputed input services. On the basis of such prescribed duty paying documents, the appellants have rightly taken credit of such service tax paid as input service under Rule 3 of the CENVAT Credit Rules, 2004 (CCR of 2004). In this regard, I find that it is an undisputed fact on record that applicable service tax has been paid on the input services. There is also no dispute that the appellants are eligible to avail CENVAT Credit. The dispute therefore remains to be examined is the fact that whether the disputed services are used by a provider of output service for providing output service as provided under clause (ii) of the definition of 'input service' under Rule 2(l) ibid. The services which are in dispute are "RCC Cloum strengthening' as repair and maintenance charges of building.

7.3 It can be seen from the factual matrix of the case that the repair work has been undertaken in respect of the studio buildings, audio recording buildings in which the output service are performed. In other words, if the appellants did not have the requisite studio or audio recording infrastructure, then they may not be able to provide the output services of sound recording, video production, video tape production etc. Therefore, the basic requirement in terms of clause (ii) of Rule 2(l) of CCR, 2004 have been fulfilled and this cannot be the ground for making the input service tax paid as ineligible for taking CENVAT credit. However, since the authorities below have rejected the CENVAT credit on the ground that this is covered under the exclusion clause provided under Rule 2(k) and 2(l) ibid, these are being examined in detail in the following paragraphs.

8.1 In order to address the above issue of eligibility to avail the CENVAT Credit on disputed input services, I would like to refer the relevant legal provisions contained in CENVAT Credit Rules, 2004 as it existed during the disputed period in respect of the taxable service under dispute.

> ***"Definitions.***
>
> ***Rule 2.*** *In these rules, unless the context otherwise requires,—*
>
> ***(k)*** *"input" means-*
> *(i) all goods used in the factory by the manufacturer of the final product; or*
> *(ii) any goods including accessories, cleared along with the final product, the value of which is included in the value of the final product and goods used for providing free warranty for final products; or*
> *(iii) all goods used for generation of electricity or steam for captive use; or*
> *(iv) all goods used for providing any output service; or*
> *(v) all capital goods which have a value upto ten thousand rupees per piece.*
> *but excludes—*

(A) light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol;

(B) any goods 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 service portion in the execution of a works contract or construction service as listed under clause (b) of section 66E of the Act;

xxx xxx xxx xxx

*(**l**) 'input service' means any service,--*

(i) services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India where service tax is paid by the manufacturer or the provider of output service being importer of goods as the person liable for paying service tax for the said taxable services and the said imported goods are his inputs or capital goods; or

(ii) any service used by a provider of output service for providing an output service; or

(iii) 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 up to 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 up to 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

xxx xxx xxx xxx

8.2 On careful reading of the Rule 2 (k) of CCR, 2004 as above, I find that the meaning is relevant for deciding whether a particular item/input is eligible for taking credit of duty paid thereon and such credit is in relation to goods. In the present case, since the credit is involved in respect of service tax paid on the erection, commissioning and installation, works contract service, the aforesaid definition clause is not relevant for the purpose of examination of the dispute in the present case. Further, the meaning of the phrase 'input' has been further clarified to state that it does not include 'any goods' used for construction or execution of works contract of a building or a civil structure or a part thereof. This is for the reason that no excise duty is being paid on such goods used in the works contract and only VAT is being paid thereon; further, on the service portion in the execution of a works contract or construction service, service tax is paid at appropriate rate after giving allowance to the abatement in respect of goods, and therefore for the purpose of examining the eligibility of CENVAT credit the relevant rule to be referred is Rule 2(l) ibid and not Rule 2(k) ibid, which only provides the definition of 'input' in the nature of goods. Further, in Rule 2(k) ibid the service portion of the works contract is excluded as exception, and this cannot be construed as being excluded from the definition of 'input', as decided by the original authority and the same having been upheld in the impugned order, which is contrary to the provisions of CENVAT statute as discussed above.

8.3 Plain reading of the phrase 'input service' as defined under Rule 2 (l) of CCR, 2004 as above, I find that it provides for three categories of services, out of which first category refers to (1) 'means' part of the definition, generally cover services which are used directly or indirectly, in or in relation to manufacture of final goods or for providing of output services; and second category refers to (2) 'inclusion' part of the definition, specifically state certain services used in relation to various activities, which is used in relation to the manufacture of final products or provision of output services, both of which are covered under the scope of 'input services'. Further, the third category, (3) 'exclusion' part of the definition provided under Clauses (A), (B), (BA) and (C), specifically provide for certain services or portion of such services, which are not included in the above definition of 'input service'. However, there are certain exceptions to this exclusion which are also given in the form of 'except for provision of certain services', 'except when used by certain category of persons', 'when such services are not primarily used for specified use' etc.

8.4 In order to examine whether a particular service is covered as 'inputs service', either it could be covered under category (1) or (2) and should not fall under the exclusion category under (3) above. In respect of disputed services, I find that the adjudicating authority in the original order had observed as follows:

> *"31. Accordingly, I hold that the noticee is not eligible for Cenvat amounting to Rs.3,05,114/- availed by them as the same cannot be termed as input service as per section 2(k) of CCC, 2004. & same is liable to be recovered from them under section the proviso to Section*

73(1) of the Finance Act,1994 read with Rule 14 of CENVAT Credit Rules, 2004; alleged in the impugned SCN."

Thus, I find that there is no discussion or a systematic examination of whether the disputed services were covered in the definition and scope of 'input service' as per Rule 2(l) ibid in the impugned order. Further, the invoices produced by the appellants and the certificate of the Chartered Accountant dated 26.06.2024 providing the accounting treatment of the repairs and maintenance expenses have not taken into account for consideration of the disputed issue.

8.5 I find that the repair work undertaken by the appellants by engaging a service provider/contractor for repairing or maintaining their studio buildings, audio recording buildings from where they are providing the output service are in the nature of improving the existing studio/audio recording infrastructure. Therefore, these are covered under the phrase "modernisation, renovation or repairs of a premises of provider of output service" mentioned in the 'inclusion' clause under second part of the definition, as provided under Rule 2(l) ibid. Further, I find that these input services under dispute i.e., repairing or maintaining services of existing infrastructure i.e., studio/audio recording buildings have not been covered under the third part of 'exclusion' list. Inasmuch as the disputed input services as above are covered under the 'means' and 'inclusion' part of the definition of 'input service' under Rule 2(l) ibid and are not covered by 'exclusion' part of the definition, I find that there is no legal basis for denial of CENVAT Credit on these repair or maintenance/ renovation service.

8.6 In view of the above discussions, I find that the grounds for rejection of CENVAT Credit on input services in the order of the adjudicating authority under Rule 2(k) ibid, which was upheld by the learned Commissioner (Appeals) is not proper and justified as neither the factual details nor the legal position were examined. In view of the above, I am of the considered view that the grounds on which the inputs service credit was disallowed in the original order, which was upheld by the impugned order, have no legal basis and accordingly is liable to be dismissed as being not legally sustainable.

8.7 As I have disposed the appeal on merits and factual matrix of the case, I am not recording any findings on other submissions made by the appellants, in respect of invocation of extended period and imposition of penalty. Further, as rightly held in a number of decisions by the higher judicial forum, in respect of issues concerning interpretation of law, extended period of limitation cannot be invoked and penalty for evasion or for violation of law cannot be imposed.

Therefore, in the present case, the adjudged demands having been held as not sustainable on merits, the imposition of penalty against the appellants by invoking extended period of demand is also not legally sustainable.

9. In this regard, I find that the Co-ordinate Bench of the Tribunal in the case of Jai Balaji Industries Limited (supra) by placing reliance on the decision of Reliance Industries (supra) have held that input credit is admissible in respect of service tax paid on works contract services, and the CENVAT credit cannot be denied. The relevant paragraphs of the said order are extracted and given below:

> *"15. The expression „works contract" was defined in the Finance Act,1994, w.e.f. 1.7.2012, in Section 65B(54), as under:*
>
> > *(54) —works contract‖ means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any movable or immovable property or for carrying out any other similar activity or a part thereof in relation to such property;*
>
> *16. We find that the definition of "ínput service" has an inclusion clause and an exclusion clause. The intention of the government could never have been to cover certain services in the inclusion part and at the same time cover them also in the exclusion clause. The cases cited by the learned advocate for the appellants support this view. The expression "modernisation, renovation or repairs of a factory‖ was appearing in the definition of „input service" both before and after 01.07.2012. It has not been denied by the department that the Coke Oven Project of the appellants was towards modernization and renovation of their existing plant/factory. 17. In the case of M/s Reliance Industries vs CCE &ST, Rajkot [2022-TIOL-359-CESTAT-AHM] decided on 13.04.2022, the facts were similar to that of the present case where the party had undertaken modernization and expansion of their facility. It was held as under:-*
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> > *" 1. In the year 2015 the appellant undertook modernization/ expansion of its manufacturing facilities in their Jamnagar refinery by setting of facilities such as Coke Gasification Island, Air Separation Unit (ASU), CoRecovery Unit , Sulphur Recovery Unit (SRU),Refinery Off-Gas Cracker Plant (ROGC),Low Density Polyethylene Plant (LDPE), Linear Low Density Polythylene Plant (LLDPE), the Captive Power Plant etc. This project was nomenclated by the appellant as the J3 project. The erection, commission, installation service and works contract service in dispute were rendered under 81 contracts by 41 contractors/ service providers. …………………………..*
> >
> > *4.10 Without prejudice to our above findings, we further find that the appellant's factory is admittedly huge existing petroleum industry and working for decades. The ECIS service was used for expansion, renovation and modernization of overall existing petroleum plant. As per inclusion clause of the definition the services relating to modernization, renovation is an admissible input service. In our view, even though service of construction of building or civil structure are falling under the exclusion clause but even if similar service is used for renovation and modernization of existing factory, the credit is admissible. The exclusion applies only in respect of such service as specified therein which are used for initial setting of the factory. It is pertinent to note that when the exclusion was brought in the rules, services relating to setting up of the factory was removed from the inclusion clause of the definition of input*

> *service in rule 2(l) of Cenvat Credit Rules, 2004 therefore, there is a direct nexus of the service mentioned in the exclusion clause and setting up of the factory. It is important to note that the legislature consciously continued the services of renovation, modernization, repairs appearing in the inclusion clause of definition of input service.* ***This clearly shows that any service relating to modernization, renovation of the existing factory is admissible as input service which is the direct case of the appellant(emphasis supplied).”***

18. In the above decision reliance was placed on the earlier decision in the case of Ion Exchange (I) Ltd. Vs. Commissioner of C. Ex., Cus. & S.T., Surat-II [2018 (12) G.S.T.L. 302 (Tri. - Ahmd.)] wherein it was held as under:- —

> *8. A plain reading of the said provisions makes it clear that service utilized in relation to modernization, renovation and repair of the factory are definitely fall within the meaning of 'input service' even though; construction of a building or civil structure or part thereof has been placed under exclusion clause of the said definition of 'input service'. After amendment to the definition of the 'input service', a clarification issued by the Board vide Circular No. 943/4/2011-CX, dated 29-4-2011 whereunder answering to the questions raised on the eligibility of credit of service tax paid on construction service as an 'input service' used in modernization, renovation or repair, it has been clarified that the said services being provided in the inclusive part of definition of 'input service' are definitely eligible to credit. Thus, harmonious reading of the inclusive part of the definition and the exclusion clause mentioned at clause (a) relating to construction service of the definition of 'input service', it is clear that the construction service relating to modernization, renovation and repair of the factory continued to be within the meaning of 'input service' and accordingly, the Service Tax paid on such service is eligible to credit. Undisputedly, the appellant carried out modernization/renovation work to meet USA, FDA guidelines for manufacture of their products therefore, the service tax paid on such construction service is eligible to credit. In the result, the impugned order is set aside and the appeal is allowed with consequential relief, if any, as per the law."*

19. Reliance was also placed on the decision in the case of Mahle Engines Components India P. Ltd Vs. Commr. Of C. Ex., Indore -2018 (363) E.L.T. 1150 (Tri. - Del.) wherein it was held as under:-

> *"6. With regard to the availment of Cenvat credit of the Service tax on painting of the factory building & machinery, I find that the Authorities below have denied Cenvat credit on the ground the construction of building or civil structure is falling under the Exclusion Clause contained in the definition of "input service" under Rule 2(1) of the Rules. However, on perusal of the sample copies of the invoices issued by the service provider, I find that the services were provided in relation to the painting of the factory building and plant & machinery, which are appropriately classifiable under category of "renovation or repair of the factory" contained in the inclusive part of the definition of the "input service". Thus, I am of the considered view that such service falls under the purview of the "input service" for the purpose of availment of Cenvat credit. Therefore, denial of Cenvat credit and imposition of penalty on the appellant will not be sustainable."*

20. Further, recently in the case of M/s Bombay Market Art Silk Cooperative (Shop & Warehouse) Society Ltd vs CCE & ST Surat-I [2022-TIOL-444-CESTAT-AHM], decision dated 17.05.2022, it was held as under:- —

> *“5. From the above decision of this Tribunal it is clear that any construction and works contract if used for repair and renovation of existing factory, the same falls under inclusion clause of definition of Input Service, accordingly, the*

Cenvat credit is admissible. The impugned order is set aside and the appeal is allowed.

21. Further, the Board itself in Circular No. 943/4/2011-CX, dated 29-4-2011 has clarified as under:-

4.	*Is the credit of input services used for repair or renovation of factory or office available?*	*Credit of input services used for repair or renovation of factory or office is allowed. Services used in relation to renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, are specifically provided for in the inclusive part of the definition of input services.*

22. In view of the above the Appellants have correctly taken credit of service tax paid/borne in respect of all services which were used for the Coke Oven Project as part of the modernization/renovation plan of the existing plant/factory."

10. In view of the foregoing, I hold that the impugned order is liable to be set aside to the extent it had denied CENVAT Credit in respect of repair and maintenance charges for a total amount of Rs.3,05,114/- on the basis of the discussions in paragraphs 7.1 to 8.7 and 9 above. Further, the penalty imposed on the appellants is also set aside in view of the above discussion.

11. In the result, the impugned order dated 18.08.2025 is set aside. I allow CENVAT Credit for an amount of Rs.3,05,114/- on the disputed input service, by allowing the appeal in favour of the appellants.

(Order pronounced in open court on 16.07.2026)

(M.M. Parthiban)
Member (Technical)

Sinha