CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. III

E–Hearing

SERVICE TAX APPEAL NO. 50450 OF 2021

[Arising out of Order-in-Appeal No. 353(CRM)ST/JDR/UDZ/2020 dated 14.12.2020 passed by the Commissioner (Appeals), Central Excise & Central Goods and Service Tax, G–105, New Industrial Area, Opp. Diesel Shed, Basni, Jodhpur–(Raj.)]

M/s. Rajasthan Housing Board ……... Appellant
Division–I, Udaipur
Salumber Chauhara
Sector–13, Hiran Magri
Udaipur–313002 (Rajasthan)

vs.

Commissioner (Appeals) ....Respondent
Central Excise & Central Goods and Service Tax
G–105, New Industrial Area, Opp. Diesel Shed, Basni
Jodhpur–(Raj.), Udaipur–(Raj.)

AND

SERVICE TAX APPEAL NO. 50451 OF 2021

[Arising out of Order-in-Appeal No. 354(CRM)ST/JDR/UDZ/2020 dated 14.12.2020 passed by the Commissioner (Appeals), Central Excise & Central Goods and Service Tax, G–105, New Industrial Area, Opp. Diesel Shed, Basni, Jodhpur–(Raj.)]

M/s. Rajasthan Housing Board ……... Appellant
Division–I, Udaipur
Salumber Chauhara
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Udaipur–313002 (Rajasthan)

vs.

Commissioner (Appeals) ....Respondent
Central Excise & Central Goods and Service Tax
G–105, New Industrial Area, Opp. Diesel Shed, Basni
Jodhpur–(Raj.), Udaipur–(Raj.)

APPEARANCE:

Mr. M. B. Maheshwari, Chartered Accountant for the Appellant
Mr. S. K. Meena, Authorized Representative for the Revenue

CORAM: HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing :09.07.2026

Date of Pronouncement :28.07.2026

FINAL ORDER NO. 51263-51264/2026

PER: MS. BINU TAMTA

M/s. Rajasthan Housing Board[1] has assailed the Order–in–Appeals[2] upholding the Order of the Assistant Commissioner that the appellant has wrongly availed the Cenvat Credit without any proper documents as prescribed under Rule 9(1) of the Cenvat Credit Rules, 2004[3].

2. The appellant is having service tax registration and are engaged in rendering/receiving taxable services of Construction services other than residential complex including commercial/industrial buildings or civil structure, transport of goods by road, renting of immovable service, construction of residential complex service, legal consultancy service and other taxable service–other than the 119 listed services. During the course of audit of the appellant, it was noticed that the appellant have wrongly availed the cenvat credit without having proper documents prescribed under Rule 9(1) of the CCR, 2004.

3. Two show cause notices dated 18.07.2019 and 04.08.2019 for the periods 01.10.2013 to 31.03.2014 and 01.04.2014 to 30.06.2017, respectively were issued for recovery of cenvat credit of ₹ 55,57,792/- and ₹ 55,93,529./-, alleging that credit was taken on the basis of running account bills prepared by engineers of the appellant and showing measurement work and amount to be paid to the contractor. These running account bills do not contain the mandatory information

[1] The appellant
[2] 353 & 354(CRM)ST/JDR/UDZ/2020 dated 14.12.2020
[3] CCR, 2004

required for availing cenvat credit and therefore, they are not proper documents in terms of Rule 9(1) of the CCR, 2004. It was further alleged that the appellant has filed ST–3 Returns for the period April, 2013 to September 2013 stating that no amount of cenvat credit availed and closing balance of cenvat credit was 'nil' in the return. In the subsequent return (October 2013 to March 2014) they have shown opening balance of cenvat credit amounting to ₹ 10,14,321/- and have also availed cenvat credit of ₹ 45,43,471/- during the said period and utilized the same. The appellant has failed to produce any documentary evidence to justify the availment of said amount of credit. The adjudicating authority vide Order dated 30.06.2020 disallowed the credit and ordered for recovery along with interest and penalty under Rule 15 of CCR, 2004. On appeal by the appellant, the impugned order has been passed, rejecting the appeal. Hence, both the appeals have been filed before this Tribunal.

4. The learned Counsel for the appellant submitted that the appellant's engineers had not prepared the bills but are being prepared by the contractors and verified by the designated person of the appellant with measurement book. There is gross error in ignoring the fact that the appellant had paid the service tax under reverse charge and taken cenvat credit after making the payment of service tax which had also not been considered and disallowed the whole credit taken by the appellant. He also submitted that the bills raised by the contractors are eligible documents for cenvat credit as per Rule 4A of Service Tax Rules, 1994[4] and Rule 9(1) and (2) of CCR, 2004 as they contain all the required details.

[4] STR, 1994

5. The Authorised Representative for the Revenue argued that the Rule 9(1) of CCR, 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, as per Rule 9(2) of the CCR, 2004, the cenvat credit cannot be availed unless all the particulars as prescribed under the STR, 1994 are contained in the said documents. The appellant have availed cenvat credit on the strength of running account bills/measurement books prepared by the engineers of the appellant and these bills/books are not specified documents under Rule 9(1) of the CCR, 2004., since they do not contain details as required under the proviso to Rule 9(2) of the CCR, 2004 read with Rule 4A of the STR, 1994.

6. Before considering the rival contentions, we may quote the relevant rules.

- Rule 4A of Service Tax Rules, 1994 –

> **"4A. [Taxable service to be provided or credit to be distributed on invoice, bill or challan]**
> **(1)**Every person providing taxable service shall, [not later than [thirty days] from the date of [completion of] such taxable service or receipt of any payment towards the value of such taxable service, whichever is earlier] issue an invoice, a bill or, as the case may be, a challan signed by such person or a person authorized by him [in respect of taxable service] [provided or agreed to be provided] and such invoice, bill or, as the case may be, challan shall be serially numbered and shall contain the following, namely :-
> (i)the name, address and the registration number of such person;
> (ii)the name and address of the person receiving taxable service;
> (iii)[description and value of taxable service provided or agreed to be provided; and]
> (iv)the service tax payable thereon:"

- Rule 9 of Cenvat Credit Rules, 2004—

> "**(1)** The CENVAT credit shall be taken by the manufacturer or the provider of output service or input service distributor, as the case may be, on the basis of any of the following documents, namely :-

(a) an invoice issued by –

(i) [a manufacturer or a service provider for clearance of -]

(I) inputs or capital goods from his factory or depot or from the premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer;

(II) inputs or capital goods as such;

(ii) an importer;

(iii) an importer from his depot or from the premises of the consignment agent of the said importer if the said depot or the premises, as the case may be, is registered in terms of the provisions of Central Excise Rules, 2002;

(iv) a first stage dealer or a second stage dealer, as the case may be, in terms of the provisions of Central Excise Rules, 2002; or

(b) a supplementary invoice, issued by a manufacturer or importer of inputs or capital goods in terms of the provisions of Central Excise Rules, 2002 from his factory or depot or from the premises of the consignment agent of the said manufacturer or importer or from any other premises from where the goods are sold by, or on behalf of, the said manufacturer or importer, in case additional amount of excise duties or additional duty leviable under section 3 of the Customs Tariff Act, has been paid, except where the additional amount of duty became recoverable from the manufacturer or importer of inputs or capital goods on account of any non-levy or short-levy by reason of fraud, collusion or any wilful mis-statement or suppression of facts or contravention of any provisions of the Excise Act, or of the Customs Act, 1962 (52 of 1962) or the rules made thereunder with intent to evade payment of duty.

….

(e) a challan evidencing payment of service tax, by the service recipient as the person liable to pay service tax; or

(f) an invoice, a bill or challan issued by a provider of input service on or after the 10th day of September, 2004; or

(2) No cenvat credit under sub-rule (1) shall be taken unless all the particulars as prescribed under the Central Excise Rules, 2002 or the Service Tax Rules, 1994 as the case may be, are contained in the said documents:

Provided that if the said document does not contain all the particulars but contains the details of duty or service tax payable, description of the goods or taxable service, [assessable value, central excise or service tax registration number of the person issuing the invoice, as the case may be,] name and address of the factor or warehouse or premises of first or second stage dealers of [provider of output service] and the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, is satisfied that the goods or services covered by the said document have been received and accounted for in the

> books of the account of the receiver, he may allow the cenvat credit."

7. Combined reading of Rule 4A of STR, 1994 and Rule 9 of CCR, 2004 makes it clear that the requirement for availing the credit is to submit the documents such as, invoice, bill, or as the case may be challan evidencing payment of service tax and shall contain the information as to the name, address, and the registration of the service provider and the service receiver, description and value of taxable service. Rule 9(2) of CCR, 2004 permits credit only if such particulars are contained in the said document and the proviso thereto mandates that even if the document does not contain all the particulars, but contains the details of duty or service tax payable, description of the goods or taxable service, assessable value, central excise/service tax, registration number, name, and address of the factory or warehouse of the premises, the authorised officer may allow the cenvat credit. The crux of the matter is that the authority needs to be satisfied about the relevant details/particular and not the form of the document. Such has been the observation of the Tribunal in the case of **M/s Resident Engineer, Rajasthan Housing Board** vs. **Commissioner of Central GST Commissionerate–Udaipur**[5] that once the substantial particulars as required under Rule 9(2) of CCR, 2004 read with Rule 4A of STR, 1994 were available the same should be treated on par with the invoices and once the payment is not in dispute, denial of credit cannot be sustained. In view of the settled principles of law, it was held that the credit availed by the appellant on such running account bills read with the payment orders is correct. The relevant para of the decision is quoted below:

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[5] Final Order No. 50989 of 2026 dated 25.05.2026

> "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), 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 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 , 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."

8. Coming to the facts of the present case, the allegation made by the Revenue is that the credit has been taken 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 and, therefore, they do not contain the mandatory information required for availing the credit. The appellant has clarified that the bills are prepared by the contractors and

are verified by the designated person of the appellant with the measurement book. It is an admitted position that the appellant is a receiver of contract service and being liable to pay service tax under reverse charge had deposited 50% in terms of Notification No. 30/2012. The credit has been taken on such service tax and service tax payment challan is a proper document to claim the credit under RCM. The appellant had taken the credit in their books of account and had claimed the credit in ST-3 Returns on the basis of the said documents. From the submissions, we find that they have taken cenvat credit of input services of construction contractors on the basis of service tax paid to the service providers in the bills and in some cases, the service tax paid by the appellant under RCM. Thus, the requirement as per Rule 4A of STR, 1994 read with Rule 9 of CCR, 2004 has been fulfilled and hence, the appellant cannot be denied the benefit of cenvat credit. Since the issue on merit stands decided in favour of the appellant, it is not necessary to go into the applicability of the extended period of limitation and imposition of penalty.

9. We therefore, do not find any merit in the impugned order and the same is here by set aside. The appeals are, accordingly allowed.

[Order pronounced on 28.07.2026]

(BINU TAMTA)
MEMBER (JUDICIAL)

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

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