CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>CHANDIGARH</u>

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 60153 of 2020

[Arising out of Order-in-Appeal No. JNK-EXCUS-APP-231-19-20 dated 15.01.2020 passed by the Commissioner (Appeals), CGST, Jammu]

M/s Reckitt Benckiser India Ltd. **......Appellant**
Phase-II, SIDCO Industrial Growth Centre
Samba, Jammu & Kashmir-181141

VERSUS

Commissioner of Central Excise & Service Tax, Jammu & Kashmir **......Respondent**
OB-32, Rail Head Complex,
Jammu & Kashmir-180012

<u>APPEARANCE:</u>

Shri Krati Singh & Ms. Khushi Satviki, Advocates for the Appellant
Shri Maheswar Maji and Ms. Amita Gupta, Authorized Representatives for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60483/2026

DATE OF HEARING: 03.07.2026
DATE OF DECISION: 03.08.2026

<u>P. ANJANI KUMAR</u>:

Reckitt Benckiser India Ltd., the appellant, procured duty paid inputs cleared by units which availed exemption Notification No.01/2010-CE dated 06.02.2010; Revenue was of the view that CENVAT credit of duty paid on inputs cleared by such units was not admissible before the amendment in Rule 12 by way of Notification

No.02/2014-CE (NT) dated 20.01.2014 w.e.f. 20.01.2014. A show cause notice dated 16.10.2017 was issued demanding CENVAT credit of Rs.79,49,359/- under Rule 14 of CCR, 2004 along with penalty. The CENVAT credit demand was confirmed vide OIO dated 28.03.2018 which was upheld vide impugned order dated 15.01.2018.

2. Ms. Krati Singh, learned counsel for the appellants submits that the availment of CENVAT credit on the inputs, capital goods and input services is governed by the provisions of Rules 3 & 4 of CCR, 2004 and Rule 12 in no way puts a restriction on the availment of CENVAT credit; learned Commissioner (Appeals) has not given any finding on this submission of the appellant. She submits that Rule 12 starts with a non-obstante clause thereby meaning that when there is a conflict with the other provisions, this particular provision will prevail; it cannot be construed that in view of the Rule 12 that credit can be denied even if the other conditions are satisfied; there is no conflict between Rule 3 & 12 of the CCR, 2004; both the Rules allow CENVAT credit if the duty paid nature of the inputs is established. She submits that it was held in Dharampal Satyapal Ltd. – 2017 (352) ELT 396 (Tri. Allahabad) that Rule 12 does not restrict the availment of CENVAT credit under Rule 3 ibid. She further submits that the amendment by Notification No.02/2014 is in the nature of clarification and therefore applicable retrospectively; therefore, the benefit cannot be denied. She also submits that the show cause notice covering the period 01.08.2009 to 19.01.2014 was issued invoking extended period which is not permissible; Department had

conduct an audit of the records of the appellants during the relevant period and also after the relevant period wherein all the records were scrutinized; in fact, audit report for the period 12.04.2016, for the period 01.04.2014 to 09.02.2015 was also issued She submits that Department has also issued various refund orders during the period and therefore, it cannot be said that the appellant has suppressed anything from the Department. She submits that the issue being in the nature of interpretation of statutes, extended period cannot be invoked. She relies on the following cases:

- Intex Technologies India Pvt. Ltd. – 2024 (4) TMI 64- CESTAT CHANDIGARH.
- HPM Chemicalsl Fertilizers Ltd. – 2024 (8) TMI 782- CESTAT Chandigarh.
- Dharampal Satyapal Ltd. – 2016 (340) ELT 376.
- Saraswati Agro Chemicals (India) Ltd. – Final Order No.63159/2018 dated 14.09.2018
- Jindal Drugs Pvt. Ltd. – Final Order No.A/63258/2018-SM [BR] dated 10.10.2018
- Krishi Rasayan Exports – Final Order No.A/63472/2018 dated 19.11.2018

3. Learned Authorized Representative for the Department reiterates the findings of the impugned order and relies on Union Quality Plastic Ltd. – 2013-TIOL-1072-CESTAT-AHM-LB in support of invocation of extended period.

4. Heard both sides and perused the records of the case. We find that issues to decide are as to whether the appellants are eligible for the CENVAT credit availed by them on the inputs procured by them from the units which were availing exemption under Notification No.01/2010-CE dated 06.02.2010 before the

amendment in Rule 12 w.e.f. 20.01.2014 and as to whether, extended period of limitation is invocable in the facts and circumstances of the case. We find that Rule 3 of the CCR, 2004 provides that a manufacturer or producer of final products are a provider of output service shall be allowed to take credit of the duties specified therein on –

(i) any input or capital goods received in the factory of manufacture of final product or by the provider of output service on or after the 10th day of September, 2004; and

(ii) any input service received by the manufacturer of final product or by the provider of output services on or after the 10th day of September, 2004.

5. We find that the argument of the Revenue is that before the amendment in Rule 12, there was no provision to allow CENVAT credit on the inputs procured from the manufacturers availing exemption under Notification No.01/2010. We find that the scheme of CENVAT credit has to be read in a harmonious manner and not in isolation with reference to one or two Rules. The Scheme of CENVAT credit provides that credit of inputs or input service as the case may be shall be admissible to the manufacturer or a provider of output service under the following conditions:

- The input or input service has suffered duty.
- Such input or input service are used in the manufacture of final products in the factory of production or in the provision of output service by the service provider.

- Such input or input service credit is received by the manufacturer or output service provider under the cover of an invoice or document specified under Rule 9.

6. In the instant case, it is not the case of the Department that any of the above conditions are not satisfied. Therefore, we are of the considered opinion that the CENVAT credit cannot be denied. Revenue argues that such credit is admissible only after the amendment in Rule 12 w.e.f. 20.01.2014. We find that before the amendment there was no express prohibition in the CENVAT Credit Rules so as to deny such credit availed by the appellant. Since the appellant has satisfied the conditions of the CCR, credit cannot be denied for the reason that express provision for the same came at a later date. We are in agreement with the argument of the learned counsel for the appellant that in the absence of an express provision, it cannot be construed that the permission being given w.e.f. 20.01.2014, credit is only admissible from that date. Therefore, we find that the issue rests in favour of the appellants on merits.

7. Coming to the issue of limitation, we find that learned counsel for the appellants submits that the appellants are regularly paying the service tax and are filing Returns; audit was being conducted regularly and reports were being issued; in addition, Revenue has processed several refund claims by the appellants and as such, Revenue was fairly in the knowledge of all the concerned facts of the case and therefore, extended period cannot be invoked. She submits further that the issue involves legal interpretation and, on that

count, also, extended period is not invocable. On the other hand, learned Authorized Representative for the Revenue submits that the proviso cannot be interpreted to mean that since Revenue has knowledge of suppression, extended period cannot be invoked. We find that the question is not about the knowledge of the Department about the suppression rather it is whether there was suppression of fact etc. with intent to evade payment of duty on the part of the appellant. Revenue has not brought forth any evidence to prove that the appellant had an intent to evade payment of duty. Moreover, it has been held in several cases that when the issue arises on the basis of an audit, extended period cannot be invoked and in cases involving legal interpretation also extended period cannot be invoked. We find support in the cases cited by the learned counsel for the appellants and the case of Sunshine Steel Industries - (2023) 8 Centax 209 (Tri.-Del).

8. In view of the above, we find that the appellants succeed both on merits and limitation. Accordingly, the appeal is allowed.

(Order pronounced in the open court on 03/08/2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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