

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 2

Excise Appeal No. 77334 of 2019

(Arising out of Order-in-Appeal No. 109/Kol-South/2019 dated 28.06.2018 passed by the Commissioner of Commissioner of CGST & CX Kolkata APPEAL-I Commissionerate GST Bhawan 180, Shantipally, Rajdanga Main Road, Kolkata-700107)

M/s. Century Plyboards (I) Ltd.,

Kanchowki, Diamond Harbour Road, Bishnupur,
24 Parganas (S)-743 368

: Appellant

VERSUS

**The Commissioner of CGST & CX, Kolkata North
Commissionerate GST Bhawan,**

180, Rajdanga Main Road, Shantipally, Kolkata-700107

: Respondent

APPEARANCE:

Shri S. P. Siddhanta, Consultant for the Appellant

Shri S. Dutta, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76409/ 2026

DATE OF HEARING: 28.09.2026

DATE OF PRONOUNCEMENT: 09.10.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been filed against the Order-in-Appeal No. 109/Kol-South/2019 dated 28.06.2018 passed by the Commissioner of CGST & CX Kolkata APPEAL-I Commissionerate GST Bhawan 180, Shantipally, Rajdanga Main Road, Kolkata-700107, wherein Cenvat credit amounting to Rs. 49,97,802/- availed and utilized by M/s. Century Plyboards (I) Ltd., Kanchowki, Diamond Harbour Road, Bishnupur (herein after referred as the Appellant), on the basis of ISD invoices issued by

their Head office, has been disallowed. The impugned order also confirmed interest and equal amount of credit disallowed as penalty.

2. The facts of the case are that during the course of audit, it was seen that the appellant had availed input Service Credit of Service Tax, distributed through ISD invoices from their Head office. The said service tax was paid for 'sales commission' service on the basis of commission charges received for the period 2011-12 to 2014-15 from M/s. Varanasi Ply Agencies and M/s. Archi's marketing consortium. The department alleged that the credit passed on by ISD would not qualify as 'input service' and hence the input service credit availed and utilized was not admissible to them. It is contended that as per the definition of input service, any service, used by the manufacturer should have nexus with the manufacture and clearance of final products upto the place of removal. Accordingly, it was contended that the services which are utilised beyond the stage of manufacturing and clearance of the goods from the factory cannot be treated as 'input service'. It was contended that a commission agent is not directly concerned with sales of the goods manufactured in the factory. Thus, the department contended that the service provided by a commission agent does not fall within the purview of the main or inclusive part of the definition of 'input service' as laid down in Rule 2(1) of the Cenvat Credit Rules, 2004. Therefore, it was alleged that the appellant was not eligible for Cenvat Credit in respect of Service Tax paid on Commission paid to the agent.

2.1. On the basis of the said allegation, a show cause notice was issued to the Appellant proposing

to disallow the Cenvat credit availed by the Appellant on the basis of ISD invoices. After due process, the said notice was adjudicated and the proceedings culminated in passing of the impugned order in Appeal.

3. The Appellant submits that they have depots in different parts of the country. They sent the above goods manufactured by them to different depots on stock transfer basis and pay duty as required to be paid in case of clearance made from depots. They have depots at Ludhiana, Chandigarh and Lucknow. They have entered into Memorandum of Understanding (MoU) with M/s. Archi's Marketing Consortium for depot at Ludhiana and Chandigarh and with M/s. Varanasi Ply Agency, for Varanasi area, for receipt of the goods sent by them on stock transfer basis. The Commission agents also renders the service of procurement of orders from different dealers; arranging for dispatch the same from their depot and also collect payment by cheques/Drafts or through RTGS in the name of the Appellant. As per above the MOU, they were giving commission on the amount collected out of the sales from the above depots. M/s. Archi's Marketing Consortium and M/s. Varanasi Ply Agency raise invoices in the name of head office of the Appellant for the above service provided by them and pay service tax on the said commission. The Head Office of the appellant Company, distributed the CENVAT credit of service tax as Input Service Distributor. The appellant submits that the Depot is their 'place of removal' and the Appellant is eligible to avail Cenvat credit of all services used upto the place of removal. Thus, the appellant submits that the services rendered by the Commission agents in connection with the sale of

goods manufactured by them through their depot, falls within the ambit of 'input services' as defined under Rule 2(1) of Cenvat Credit Rule, 2004. In support of this contention, the Appellant relied on the decision of the Hon'ble Gujarat High Court in the case of *COMMISSIONER OF C. EX. AHMEDABAD-II Versus CADILA HEALTHCARE LTD. reported in 2013 (30) S.T.R. 3 (Guj.)2013(1) TMI 304- Gujarat High Court*, wherein it has been held that 'commission agent service' rendered in connection with sale of goods from depots are eligible for Cenvat credit as 'input service'. Thus, the Appellant submits that the Cenvat credit disallowed in the impugned order is legally not sustainable.

4. The Ld. A.R reiterated the findings in the impugned order.

5. Heard both sides and perused the appeal documents.

6. We find that the Appellant has availed Cenvat credit of service tax paid on the services received from the Commission agents, which has been passed on by the Head office of the Appellant as ISD. The Appellant claimed that the said service would fall within the definition of 'input service' and hence the input service credit availed and utilized is admissible to them. For ready reference, the said definition of 'input service' is extracted below:

Input Service has been defined under Rule 2(1) of Cenvat Credit Rules, as per which, "Input Service" means any service-

i) used by a provider of taxable service for 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 setting up, modernization, renovation or repairs of a factory, premises of a provider of output services or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs activities relating to business, such as accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry and security, inward transportation of input or capital goods and outward transportation upto the place of removal:"

6.1. As per the above definition of input service, we find that any service, used by the manufacturer in connection with the manufacture and clearance of goods, upto the place of removal are eligible as 'input service'. Place of removal is well defined in Section 4(3)(c) of the Central Excise Act, 1944, as per which a 'Depot' is a place of removal and hence all the services used in connection with the manufacture and sale of the goods upto the Depot are eligible for Cenvat credit. In the present case, we find that the services rendered by M/s. Archi's Marketing Consortium and M/s. Varanasi Ply Agency are in connection with the sale of goods manufactured by the Appellant company and the commission paid was in relation to the sale of the goods manufactured by the Appellant company. Accordingly, we observe that service tax paid on the commission received by the Agents qualify as 'input service' as the said commission is related to sale of goods manufactured by the Appellant. Thus, we hold that the Appellant is eligible to avail the input service credit passed on by the Head Office as Input Service Distributor. We hold that there is no infirmity in

availment of the credit distributed by the ISD and hence we hold that the disallowance of credit in the impugned order along with interest and penalty is legally not sustainable, and hence we set aside the same.

7. In the result, we set aside the impugned order and allow the appeal filed by the Appellant with consequential relief, if any, as per law.

(Order Pronounced in Open court on 09.10.2026)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

RKP