

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
CHENNAI**

REGIONAL BENCH, COURT NO. 1

Excise Appeal No. 42248 of 2017

(Arising out of the Order in Appeal No. 47 & 48/2017 (CTA-I) dated 10.08.2017 passed by the Commissioner of GST and Central Excise (Appeals I), 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai 600 034)

M/s. Royal Enfield (A Unit of Eicher Motors Limited) ...Appellant

Tiruvottiyur High Road, Tiruvottiyur,
Chennai 600 019

Versus

The Commissioner of GST and Central Excise ...Respondent

Chennai North Commissionerate,
26/1, Mahatma Gandhi Road, Nungambakkam,
Chennai 600 034

WITH

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AND

Excise Appeal No. 41891 of 2018

(Arising out of Order in Appeal No. 237/2018 (CTA-I) dated 16.05.2018 passed by the Commissioner of GST and Central Excise (Appeals I), 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai 600 034)

M/s. Royal Enfield (A Unit of Eicher Motors Limited) ...Appellant

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Versus

The Commissioner of GST and Central Excise**...Respondent**

Chennai North Commissionerate,
26/1, Mahatma Gandhi Road, Nungambakkam,
Chennai 600 034

APPEARANCE:

For the Appellant	: Mr. Sivarajan, Consultant for the Appellant Mr.M. Krishnakumar, Consultant Ms. Usha Kumari, Consultant
For the Respondent	: Ms. G Krupa, Authorised Representative

CORAM:**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)****HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)****FINAL ORDER Nos.41095-41097/2026****DATE OF HEARING: 07.05.2026****DATE OF DECISION: 15.10.2026****Per AJAYAN T.V.**

These three appeals are preferred by Royal Enfield, a unit of Eicher Motors Limited, which manufactures motorcycles at Tiruvottiyur, Chennai (the appellant). Excise Appeal Nos. 42248 and 42249 of 2017 assail the common Order in Appeal No. 47 & 48/2017 (CTA-I) dated 10.08.2017 (OIA I & II), which affirmed Order in Original No. 86 & 87/2016 dated 27.12.2016 (OIO I & II) passed by the Additional Commissioner, Chennai I Commissionerate. Excise Appeal No. 41891 of 2018 assails Order in Appeal No. 237/2018 (CTA-I) dated 16.05.2018 (OIA III), which affirmed Order in Original No. 45/2017 dated 27.11.2017 (OIO III) passed by the Assistant Commissioner, Tiruvottiyur Division. A common question of law runs through all three appeals, and they were heard together. They are disposed of by this common order.

Relevant Facts

2. The appellant manufactures motorcycles and parts thereof at Tiruvottiyur under Central Excise Registration No. AAACE3882DXM004. The same legal entity operates a spare parts unit at Manjambakkam, under Registration No. AAACE3882DEM009,

where packing and affixing of MRP constitute deemed manufacture, and a second motorcycle factory at Oragadam under Registration No. AAACE3882DEM010. The motorcycles are sold through branches, depots and dealers. The appellant also runs its own service stations, from which it renders repair and maintenance services on which it pays service tax. By its letter dated 13.02.2009, the Commissioner of Service Tax, Chennai, permitted the appellant to obtain centralised registration under sub rules (2) and (3) of Rule 4 of the Service Tax Rules, 1994 at its Tiruvottiyur address, in view of the centralised system of accounting followed there. The original certificate dated 12.02.2009 listed seven service centres. The certificate was amended from time to time, and in the version last amended on 15.10.2014 bearing Registration No. AAACE3882DSD017, the premises from which taxable services are provided include service stations in several cities, offices at New Delhi and Gurgaon and the Oragadam premises, while the Tiruvottiyur premises is shown as the premises paying service tax under centralised billing or accounting. The corporate office holds a separate service tax registration No. AAACE3882DSD018 and is stated to function as the input service distributor (ISD) of the company.

3. It is not in dispute that the accounting of the service stations, the payment of their input service invoices together with the service tax thereon, the filing of the ST-3 returns and the payment of output service tax were all carried out at Tiruvottiyur. The credit of service tax on input services received at the service stations and offices was taken in the ER-1 returns of the Tiruvottiyur factory. The ST-3 returns of the centralised registration disclosed no CENVAT credit, and the output service tax was paid in cash.
4. During the audit, the Range Superintendent forwarded three objections by letter OC No. 169/2014 dated 14.07.2014. On 24.07.2014 the appellant reversed Rs. 23,77,934/-, which represented the portion of the credit distributed by the ISD during March 2013 to March 2014 that, on a turnover basis worked out by a Chartered Accountant, was attributable to the Manjambakkam unit. Revised ISD invoices were issued to Manjambakkam, which took the credit. On 12.08.2014 the appellant reversed Rs. 8,09,021/- taken during December 2012 to March 2014 on twenty two invoices for services used exclusively at Oragadam and Manjambakkam, and that

credit was passed on to those units. By its letter dated 13.08.2014 the appellant informed the Department of both reversals and declined to reverse the credit relating to the service stations, asserting its entitlement to it.

5. Three show cause notices followed. Show Cause Notice No. 009/2016 dated 03.02.2016, covering November 2012 to March 2015, proposed recovery of Rs. 51,47,822/- under Rule 14 of the CENVAT Credit Rules, 2004 (the Rules) read with Section 11A(4) of the Central Excise Act, 1944 (the Act). That sum comprised Rs. 23,77,934/- on the ground that distribution of the entire ISD credit to Tiruvottiyur offended Rule 7(d) read with Rule 5, Rs. 8,09,021/- being credit taken on invoices for services pertaining to the other units with reference to Rule 2(I), and Rs. 19,60,867/- being the credit on invoices relating to the service stations, marketing office and the like, said to be "not related to the manufacturing unit". The notice invoked the extended period on the premise that the facts would not have surfaced but for the audit, and it proposed appropriation of Rs. 31,86,955/- already reversed, interest and penalty under Rule 15(2) read with Section 11AC. Show Cause Notice No. 29/2016 dated 26.04.2016, covering April 2015 to March 2016, proposed recovery of Rs. 5,18,223/- under Rule 14 read with Section 11A(1), on the allegation that under Rule 3 a manufacturer may take credit of service tax on input services received by him, whereas these services were received at the service stations and not in the manufacturing unit. It proposed interest and penalty under Rule 15(1). Show Cause Notice No. 09/2017-18 dated 09.10.2017, covering April 2016 to June 2017, proposed recovery of Rs. 15,81,911/- under Rule 14 read with Section 11A(1). It alleged that services such as telephone, rent and housekeeping received and used at the service stations had no nexus with manufacture, did not figure in the inclusive part of Rule 2(I), and were taken in contravention of Rule 3(1). It too proposed interest and penalty under Rule 15(1) read with Section 11AC(1)(a).
6. In its replies dated 06.04.2016 and 25.05.2016, the appellant contended that the ISD had distributed credit on valid documents under Rules 7 and 9, that the reversals were made as a matter of abundant caution, that the whole exercise was revenue neutral since the sister units were entitled to the same credit, and that the extended period was not invocable. As regards the service stations, it

contended that the services were used for providing taxable output services covered by the centralised registration, that no rule restricted credit on input services to those received in the factory, and that cross utilisation of credit was settled law.

7. OIO Nos.I & II confirmed the demand of Rs. 51,47,822/- with interest, appropriated Rs. 31,86,955/- and imposed an equal penalty of Rs. 51,47,822/- under Rule 15(2) read with Section 11AC. On the second notice it confirmed Rs. 5,18,662/-, invoking Section 11A(4), together with interest and a penalty of Rs. 51,860/- under Rule 15(1). On the service station credit, the Adjudicating Authority reasoned that a service used for providing an output service is an input service of the output service provider and not of the manufacturer, and that permitting cross credit would defeat Rule 2(I). Prefacing the remark with the words "though it may be out of context of SCN", it added that a company holding different registrations ought to follow Rule 7 for distribution, and it held that the decision in *S.S. Engineers* supported only cross utilisation and not the taking of credit of one unit by another merely because of centralised registration. The extended period was upheld because the lapse came to light in audit and the appellant reversed credit only thereafter.
8. OIA I & II affirmed OIO I & II. On the ISD credit, it held that the amendment to Rule 7 effective from 01.04.2014 was prospective. On the credit of the other units, it placed the burden on the appellant and relied on *Multiple Exports v. UOI, 2013 (288) E.L.T. 331 (Guj.)*. On the service stations, it held that centralised registration is only a facility for paying service tax through one office and does not permit a unit to take credit on documents in the name of another unit, that services used for output services are not input services of a manufacturer, and that the appellant "ought to have taken Input Service Distributor registration in terms of Rule 7". It rejected the plea that branch offices were places of removal, citing *CCE v. Ispat Industries Ltd., 2015 (324) E.L.T. 670 (S.C.)*, and it upheld interest and the extended period on the footing that the audit revealed the lapses and the appellant admitted them by reversal.
9. OIO III confirmed Rs. 15,81,911/- with interest and imposed a penalty of Rs. 4,75,000 under Rule 15(1) read with Section

11AC(1)(a). It held that registration is premises specific and not entity specific, that the services were not received in the factory, and that the factory rendered no output service to which they could be related. It distinguished *S.S. Engineers, Lakshmi Technology* and *V. Thangavel* as cases where goods and services were supplied from the same premises. It read Rule 2(I) with Rule 7(c) to conclude that credit attributable to one unit cannot be taken in another. It also recorded, as an admitted fact, that the service stations were separately registered and received ISD credit until 20.04.2014 and that credit was taken at the factory only thereafter. OIA III affirmed, holding that the service stations, located far from Tiruvottiyur, had no nexus with manufacture, and repeating the reasoning of OIA I & II on centralised registration.

Submissions on behalf of the appellant

10. The Learned Consultant for the appellant contended that the appellant is one person who is both a manufacturer and a provider of output service, and that the service stations and offices are premises covered by its centralised registration at the very Tiruvottiyur address where the accounting, payment and returns are handled. The input services at those premises were used for providing taxable output services, a fact which no notice disputes, and they are therefore input services under the first limb of Rule 2(I). Neither Rule 3(1) nor Rule 4(7) requires an input service to be received in the factory, unlike the conditions in Rule 4(1) and 4(2) for inputs and capital goods. Rule 3(4) permits the credit to be used for any duty of excise or for service tax, without any one to one correlation. The design of the ER-1 and ST-3 returns, together with the Board's Instruction F. No. 381/23/2010/862 dated 30.03.2010, confirms that credit is a common pool. Credit was taken only once, in the ER-1 returns, and the ST-3 returns show nil credit. Reliance was placed on *S.S. Engineers v. CCE, 2015 (38) S.T.R. 614 (Tri.-Mum.)*, affirmed in *CCE v. S.S. Engineers, 2016 (42) S.T.R. 3 (Bom.)*, *CCE v. Pipavav Shipyard Ltd., (2023) 4 Centax 246 (Guj.)*, *CCE v. Lakshmi Technology & Engineering Industries Ltd., 2011 (23) S.T.R. 265 (Tri.-Chennai)*, *CCE v. V. Thangavel & Sons (P) Ltd., 2015 (37) S.T.R. 144 (Tri.-Chennai)*, *CCE v. Areva T & D India Ltd., 2011 (23) S.T.R. 33 (Tri.-Chennai)*, *Veena Industries Ltd. v. CCE, 2016 (42) S.T.R. 299 (Tri.-Ahmd.)*, *Pyrotech Workspace Solutions Pvt. Ltd. v. CCE, 2016*

(43) *S.T.R. 299 (Tri.-Del.)*, *Tally Solutions Pvt. Ltd. v. CCE*, 2020 (41) *G.S.T.L. 520 (Tri.-Bang.)*, *CCE v. Graphite India Ltd.*, 2017 (3) *G.S.T.L. 505 (Tri.-Mumbai)*, *Jyoti Structures Ltd. v. CCE*, 2012 (28) *S.T.R. 380 (Tri.-Mumbai)*, *CCE & ST v. AGS Transact Technologies Ltd.*, 2023-VIL-762-CESTAT-AHM-CE and *KEI Industries Ltd. v. PCGST*, (2025) 26 *Centax 171 (Tri.-Del.)*. It was urged, citing *Union of India v. Kamlakshi Finance Corporation Ltd.*, 1991 (55) *E.L.T. 433 (S.C.)*, that the authorities had ignored binding precedent.

11. Counsel further argued that Rule 7 was never invoked in any of the notices, that its use in the orders travels beyond the notices, and that Rule 7 has no application where the manufacturing unit and the centrally registered premises are one and the same. Before centralised registration, the ISD distributed credit to the service stations individually, and thereafter the registered premises was treated as a single unit. Substantial benefit cannot be denied for a procedural lapse, as held in *CCE v. Dashion Ltd.*, 2016 (41) *S.T.R. 884 (Guj.)* and *CCE v. National Engineering Industries Ltd.*, 2016-TIOL-922-HC-RAJ-CX: 2016 (42) *STR 945 (Raj)*. The credit on marketing and branch offices was also admissible, because those offices sell the appellant's goods, constitute places of removal under Section 4(3)(c) of the Act and receive services of advertisement and sales promotion, and OIO I recorded no finding on this part of the demand.
12. On the ISD credit, counsel maintained that until 31.03.2016 Rule 7 used the expression "may distribute", so that distribution among all units was optional, relying on *CCT v. Oerlikon Balzers Coating India Pvt. Ltd.*, 2019-VIL-34-BOM-ST, *Hindustan Zinc Ltd. v. CCE*, 2019-VIL-873-CESTAT-DEL-CE, *Piramal Glass Pvt. Ltd. v. CCE & ST*, 2021-VIL-476-CESTAT-AHM-CE, *Philips Carbon Black Ltd. v. CCE*, 2024-VIL-1373-CESTAT-AHM-CE, *Maini Precision Products Ltd. v. CCT*, 2021-VIL-293-CESTAT-BLR-CE, *Exide Industries Ltd. v. CCGST*, 2026 (3) *TMI 350 (CESTAT Chandigarh)* and *CIT v. Mahendra Mills*, [2000] 109 *Taxman 225 (SC)*. A recipient that took credit on valid ISD invoices under Rule 9 cannot be faulted for the manner of distribution, as held in *Tata Steel Ltd. v. CCGST & CX*, 2024-VIL-1516-CESTAT-KOL-ST, *Ericsson India Pvt. Ltd. v. CCE & ST*, 2019-VIL-48-CESTAT-HYD-ST, *Piyanshu Chemicals Pvt. Ltd. v. CCCE & ST*, 2018-VIL-847-CESTAT-

HYD-ST, Hetero Drugs Ltd. v. CCT, 2019-VIL-213-CESTAT-HYD-ST, Bharat Heavy Electricals Ltd. v. CCGST & CE, (2026) 39 Centax 405 (Tri.-Mad.) and other decisions. The amendments effective from 01.04.2014, and Circular No. 178/4/2014-ST dated 11.07.2014, themselves acknowledged the doubts surrounding distribution. As regards the credit of Rs. 8,09,021/-, counsel submitted that the invoices were addressed to Tiruvottiyur and paid from there, and that the credit, once its error was pointed out, was reversed and passed on.

13. On limitation, interest and penalty, it was submitted that the demands on the ISD credit and on the credit of the other units fall wholly, and the demand on the service stations falls partly, within the extended period. All credit was disclosed in the ER-1 returns, the audit proceeded entirely on the appellant's records, the issues were interpretative, and the exercise was revenue neutral. Reliance was placed on *SRF Ltd. v. CCE, 2007 (220) E.L.T. 201 (Tri.-Che.)*, affirmed in *2016 (331) E.L.T. A138 (S.C.)*, *CCE v. Tenneco RC India Pvt. Ltd., 2015 (323) E.L.T. 299 (Mad.)*, *Raymond Ltd. v. CCE, 2017 (47) S.T.R. 142 (Tri.-Del.)*, *CCE v. Steel Authority of India Ltd., 2026-TIOL-21-HC-KOL-CX*, *CCE & C v. Reliance Industries Ltd., 2023 (7) TMI 196 (SC)*, *Mahanagar Telephone Nigam Ltd. v. UOI, 2023 (4) TMI 216 (Delhi)*, *GD Goenka Pvt. Ltd. v. CCGST, 2023 (8) TMI 995 (CESTAT New Delhi)*, *Larsen & Toubro Ltd. v. Assistant Commissioner, 2022-VIL-800-CAL-ST, CC, CE & ST v. Zyg Pharma Pvt. Ltd., 2017 (358) E.L.T. 101 (M.P.)*, *Maruti Suzuki Ltd. v. CCE, 2009 (240) E.L.T. 641 (S.C.)*, *Ganta Ramanaiah Naidu v. CCE, 2010 (18) S.T.R. 10 (Tri.-Bang.)*, *CCE v. J.J. Polyplast Ltd., 2010 (252) E.L.T. 511 (Guj.)*, *UMS Radio Factory v. CCE, 2004 (167) E.L.T. 87 (Tri.-Chennai)* and *Rashtriya Ispat Nigam Ltd. v. CCE, 2003 (161) E.L.T. 285 (Tri.-Bang.)*. It was also urged that OIA III did not deal with the written submissions filed on 03.04.2018.

Submissions on behalf of the respondent

14. Ms. G Krupa, the learned Authorised Representative appearing for the Revenue, reiterated the findings in the impugned orders. It was contended that the services in question were received and used at the service stations, which are located far from the factory and have no nexus with the manufacture of motorcycles at Tiruvottiyur, and that

they therefore do not qualify as input services of the manufacturer under Rule 2(I). It was urged that a centralised service tax registration is only a facility for payment of service tax through one office and does not permit the factory to take credit on documents issued in the name of the service stations, and that the appellant ought to have distributed such credit through an input service distributor. On the ISD credit and the credit of the other units, it was contended that distribution of the entire credit to Tiruvottiyur offended Rule 7 and that the burden of establishing eligibility lay on the appellant. As to limitation, interest and penalty, the learned Authorised Representative supported the findings that the lapses came to light only in audit, that the reversal of credit after the audit evidenced suppression, and that interest was payable in terms of *Union of India v. Ind-Swift Laboratories Ltd., 2011 (265) E.L.T. 3 (S.C.)*.

Issues for determination

15. We have heard both sides and perused the appeal records, the paper books and the decisions cited.
16. The following issues arise for our determination:
 - i. Whether credit of service tax on input services received at the service stations and offices covered by the centralised service tax registration of the appellant at Tiruvottiyur amounting to Rs. 19,60,867/- in Excise Appeal No. 42248 of 2017, Rs. 5,18,662/- in Excise Appeal No. 42249 of 2017 and Rs. 15,81,911/- in Excise Appeal No. 41891 of 2018, could be taken in the CENVAT account of the Tiruvottiyur factory and utilised for payment of excise duty in terms of Rule 3(4) of the Rules, when Tiruvottiyur was not registered as an input service distributor?;
 - ii. Whether the ISD credit of Rs. 23,77,934/- distributed wholly to Tiruvottiyur is recoverable from it?;
 - iii. Whether the credit of Rs. 8,09,021/- on invoices for services used exclusively at Oragadam and Manjambakkam is recoverable from Tiruvottiyur?;
 - iv. Whether the extended period of limitation was rightly invoked in Show Cause Notice No. 009/2016?; and
 - v. Whether interest and penalties are sustainable?.

Issue (i) Credit of input services pertaining to the service stations

17. We take up the first question pertaining to credit of input services pertaining to the service stations at the outset. The aggregate demand under it is the largest, and its answer disposes of two of the three appeals in their entirety. It is first necessary to be clear about the case the notices actually made. Each notice, after setting out Rule 2(I), proposed to deny the credit taken in the manufacturing unit on the ground that the services, relating to the service stations and, in the first two notices, the marketing offices, did not satisfy the definition of input service in relation to the manufacturer. Show Cause Notice No. 009/2016 described them as "not related to the manufacturing unit". Show Cause Notice Nos. 29/2016 and 09/2017-18 added that they were not received in the manufacturing unit and had no nexus with manufacture, invoking Rule 3. The notices did not allege that the service stations or offices lay outside the centralised registration, that the appellant was obliged to register as an ISD, or that the same credit was taken twice. It is a settled proposition in law that the Revenue is confined to the case so made, and cannot, at the stage of adjudication or appeal, sustain the demands on some other basis. That limitation operates on the Revenue. It does not relieve the appellant of the burden, which Rule 9 places on the manufacturer or provider of output service taking credit, of establishing that the services satisfy the definition of input service. The silence of a notice cannot supply that proof, and we do not treat it as doing so.

18. The starting point is the definition, for credit under the Rules can be taken only of an "input service" as defined, and Rule 3(1) does not by itself confer eligibility on any service. Rule 2(I), in the form applicable from 01.04.2011, defines input service as any service "(i) used by a provider of output 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 the services enumerated in its inclusive part, subject to the exclusions that follow. Satisfaction of this definition is the primary condition. Only a service that answers one of its limbs becomes an input service, and only then does Rule 3(1) operate to allow "a manufacturer or producer of final products or a

provider of output service" to take credit of the service tax paid on "any input service received by the manufacturer of final product or by the provider of output services". Rule 3(4) then governs utilisation, providing that the CENVAT credit "may be utilized for payment of (a) any duty of excise on any final product; or ... (e) service tax on any output service". Rule 4(7) allows credit on input services on receipt of the invoice referred to in Rule 9, while Rule 3(1)(i) and Rule 4(1) tie the credit on inputs and capital goods to their receipt in the factory or in the premises of the provider of output service.

19. Tested first against the second limb of Rule 2(I), the services in question do not qualify. Rent, telephone, courier, security and housekeeping services consumed at service stations in several cities, which repair and maintain motorcycles after their sale, are not used, directly or indirectly, in or in relation to the manufacture of motorcycles at Tiruvottiyur or their clearance upto the place of removal. Nor do they fall within the services enumerated in the inclusive part in relation to a manufacturer. The contention that the value of free warranty service is included in the assessable value of the motorcycles does not alter this. The inclusion of an element in the transaction value of the goods says nothing about whether a service consumed after their removal is used in or in relation to their manufacture. To that extent, the authorities below were right, and had the appellant's claim rested on its character as a manufacturer, it would have failed. A centralised service tax registration cannot cure that deficiency. Registration is a matter of procedure. It does not convert a service that fails the definition into an input service, and it does not make a service consumed at a service station one used in the manufacture of goods.
20. The first limb of Rule 2(I), however, prescribes a different test. It asks whether the service was used by a provider of output service for providing an output service. As regards the service stations, that the appellant claimed the credit in this capacity is not a case we make for it. Its replies pleaded two things. The first was that the service stations render free warranty service, the value of which is included in the price of the motorcycles on which duty is paid, a plea that goes to the manufacturer limb and which we have rejected. The second was that the services are used for providing taxable output services from

the service stations, after sales service being separately charged and subjected to service tax. That second plea was taken in reply to all three notices and repeated in each appeal, and the authorities below were bound to decide it. Whether the first limb is satisfied must be found on the record, and to our mind, the record answers it without the need for any fresh enquiry. The registration certificates show the service stations and offices as premises from which the appellant provides taxable services, including repair and maintenance of motor vehicles, under the registration held at Tiruvottiyur, and the ST-3 returns on record disclose service tax paid on those output services under that registration. More tellingly, the findings of fact in the impugned orders themselves establish the point. OIO III recorded, as "admitted and undisputed facts", that the service stations provide repair, reconditioning and maintenance services for the vehicles sold by the appellant, and that the disputed services were received and used at those service stations. OIA III recorded that "it is not in dispute that, the Impugned Services were received and used at the service stations of Appellant". A service consumed at the very premises from which a taxable output service is rendered, in the course of rendering it, is a service used for providing that output service. The inclusive part of the definition also expressly embraces services used in relation to the premises of a provider of output service. The appellant has therefore discharged the burden on it, on facts found by the Revenue's own authorities. The services at the service stations satisfy the first limb and are input services within Rule 2(I). It is on that basis, and not on the strength of the centralised registration, that the question of credit under Rule 3(1) arises at all.

21. We must also mark the limits of this finding. The appellant's reply stated that the service stations render warranty service, for which no separate charge is made, as well as paid services on which service tax is paid. No notice raised any question of apportionment of common input services between activities attracting tax and those that did not, whether under Rule 6 or otherwise, and no authority below examined it. To embark on that question now would be to make out for the Revenue a case it never made, which we may not do. We accordingly express no opinion on it. Our finding is confined to the case actually put to the appellant, namely that the services were inadmissible

because they were not used in manufacture and were not received in the factory.

22. Rule 4(2) of the Service Tax Rules, 1994 allows a person liable to pay service tax who provides a taxable service from more than one premises, and who has a centralised billing or accounting system, to register, at his option, the premises where that system is located. The provider of output service is the person. A centralised registration does not create as many assessees as there are premises; it brings all the declared premises of one assessee under a single registration at the place of centralised accounting. The service stations of the appellant are therefore not separate providers of output service. They are premises from which the appellant, as the registered provider of output service, renders its taxable services. When rent, telephone, security, courier or housekeeping services are received at those premises, they are received by the provider of output service within the meaning of Rule 3(1)(ii). The relevance of the centralised registration is thus confined to identifying the registered person and the place at which its credit is accounted for. It is not the source of the entitlement, which flows from the definition.
23. Viewed in that light, the premise common to all three notices, namely that the services were not received in the factory, is legally irrelevant. The Rules attach no such condition to input services. The observation in OIO III that registration is premises specific and not entity specific is, only half true. A Central Excise registration is indeed specific to the factory. A centralised service tax registration under Rule 4(2) is the very device by which several premises of one assessee are aggregated, and it was granted to the appellant precisely on that basis.
24. The error in the impugned orders lies, therefore, not in their view of the second limb but in their failure to consider the first. Every authority below tested the disputed services exclusively against the manufacturer limb of Rule 2(I) and, finding that they were not used in or in relation to manufacture, denied the credit. The first limb was never examined, although the appellant claimed the credit precisely as a provider of output service. OIO I & II itself acknowledged that a service used for providing an output service is an input service of the

output service provider. It failed to draw the inevitable conclusion that the appellant is that output service provider. OIO III, for its part, observed that the factory renders no output service to which the services could be related, overlooking that the output services are rendered by the same person from premises covered by its registration. A Single Member Bench of this Tribunal in *Pyrotech Workspace Solutions Pvt. Ltd. v. CCE, 2016 (43) S.T.R. 299 (Tri.-Del.)* set aside an order for exactly this misdirection, observing that the lower authority "has not examined whether the input service is eligible for credit as it has got nexus with taxable output service provided by the manufacturer".

25. Once the credit is validly taken by the person who is both manufacturer and provider of output service, its utilisation is governed by Rule 3(4), which permits payment of any duty of excise on any final product. The rule contains no requirement that credit earned as a provider of output service be used only for service tax, and it requires no one to one correlation. In *S.S. Engineers*, the Mumbai Bench held that Rule 3 does not require separate accounts to be maintained in the capacities of manufacturer and service provider. The Revenue's appeal was dismissed by the Bombay High Court in *CCE v. S.S. Engineers, 2016 (42) S.T.R. 3 (Bom.)*, which observed that "the cross utilization of credit on goods and services being not covered by any restrictive provision, leave alone any prohibition or embargo, the Tribunal's order does not call for any interference". The High Court noted that the accounting concerns of the Revenue had been addressed by the Board's Instruction dated 30.03.2010, which clarified, as recorded in *Tally Solutions Pvt. Ltd. v. CCE, 2020 (41) G.S.T.L. 520 (Tri.-Bang.)*, that cenvat credit on inputs, capital goods and input services is available in a common pool and can be used for payment of excise duty and/or service tax. Much earlier, in *CCE v. Lakshmi Technology & Engineering Industries Ltd., 2011 (23) S.T.R. 265 (Tri.-Chennai)*, this Bench held that "the rules permit taking of credit under a common pool and permit use of the credit from the common pool for different purposes".
26. Closest to the present facts is the judgment of the Gujarat High Court, speaking through Pardiwala J. (as His Lordship then was), in *CCE v. Pipavav Shipyard Ltd., (2023) 4 Centax 246 (Guj.)*, decided on

14.02.2020. There the assessee was both a manufacturer of ships and a provider of repair services, and the Revenue objected that credit on input services had been taken in the ER-1 return instead of the ST-3 return. The High Court held that Rule 3 "does not contain different criteria to qualify for Cenvat Credit for a manufacturer and for an output service provider", that the Rules "do not provide that Cenvat Credit can be disallowed if it is not reflected for ST-3 Return", and that "the input service credit cannot be denied on the ground that it is shown in the ER-1 return instead of the ST-3 returns since the cross-utilization of credit of input and input service is permissible". That reasoning answers the only residual objection open on the present facts, namely that the credit belonged to the service tax registration and was recorded in the account of the excise registration. Both registrations belong to the same person at the same Tiruvottiyur premises, the ST-3 returns disclose no credit, and no double availment is alleged.

27. The distinction drawn in OIO III, that *S.S. Engineers, Lakshmi Technology and V. Thangavel* concerned goods and services supplied from the same premises, is a distinction without a difference. The centrally registered premises and the factory are at the same address in Tiruvottiyur. In any event, Rule 3 does not make the credit on input services depend on the premises at which they are received. The decision of this Bench in *Lakshmi Technology* was binding on the Adjudicating Authority within this jurisdiction, and the duty to follow it could not be avoided by a factual distinction of this kind. As *Union of India v. Kamlakshi Finance Corporation Ltd., 1991 (55) E.L.T. 433 (S.C.)* reminds us, the principles of judicial discipline require that the orders of higher appellate authorities be followed unreservedly by subordinate authorities.
28. We come now to the precise question that arises, namely whether the absence of an ISD registration at Tiruvottiyur disentitles it from taking the credit of the service stations. Rule 2(m) defines an input service distributor as "an office of the manufacturer or producer of final products or provider of output service, which receives invoices issued under rule 4A of the Service Tax Rules, 1994 towards purchases of input services and issues invoice, bill or, as the case may be, challan for the purposes of distributing the credit of service tax paid on the

said services to such manufacturer or producer or provider". The mechanism exists to carry credit from an office that receives invoices but has no output liability of its own against which to use them, such as a head office, to the units that do have such liability. It presupposes a distribution from one office to another. Here no distribution was called for. The invoices of the service stations were received, accounted and paid at the centrally registered premises, which is itself the registered provider of output service, and the credit vested in that registrant on receipt of the invoices. An ISD registration at Tiruvottiyur would have served only to distribute credit to itself.

29. Rule 7, as it stood until 31.03.2016, was in any case an enabling provision. It provided that the input service distributor "may distribute" the credit to its manufacturing units or units providing output service, subject to the conditions it prescribed. The decision of the Bombay High Court in *Commissioner, Central Tax, Pune I v. Oerlikon Balzers Coating India Pvt. Ltd.*, Central Excise Appeal No. 117 of 2018 decided on 19.12.2018, reported in 2019 (366) E.L.T. 624 (Bom.), is instructive on facts as well as on law. There the Pune unit of the assessee received intellectual property and software services used by all its units across the country, discharged the tax on them under reverse charge, took the entire credit in its own books and used it to pay service tax on its coating services at Pune. The Revenue contended that Rule 7, both before and after the amendment of 2012, obliged the assessee to distribute the credit pro rata among its units. Having set out Rule 7 in both its versions, including clauses (c) and (d) introduced in 2012, the High Court observed that "both provisions give an option to the assessee concerned whether to distribute input services tax available to it amongst its other manufacturing units", that distribution became mandatory only when the expression "shall distribute" was substituted with effect from 01.04.2016, and that the assessee "was entitled to utilize the CENVAT credit available at its Pune unit". It then declined to entertain the Revenue's appeal, holding that the entire exercise was in any event revenue neutral and the question academic. The facts there are closer to the present case than may first appear. A single registered premises took credit of services used across several premises of the same assessee, without distribution, and the High Court found no illegality in that course. In *CCE v. Dashion Ltd.*, 2016 (41) S.T.R. 884

(Guj.), credit of one unit had been used to discharge the liability of another unit without pro rata distribution, and the assessee had not registered as an ISD. The High Court held that there was no restriction of that nature under Rule 7 as it then stood and that non registration as an ISD was only a procedural irregularity, for which substantial benefit could not be denied when proper records were maintained. The Board accepted that judgment, together with *National Engineering Industries Ltd.*, in Part I of Circular No. 1063/2/2018-CX dated 16.02.2018, and directed field formations to decide pending cases accordingly. The jurisdictional High Court followed Dashion in *CCE, Coimbatore v. Pricol Ltd.*, 2021 (48) G.S.T.L. 235 (Mad.), and so did this Tribunal in *Bank of India v. Commissioner*, Final Order No. 40276/2026 dated 20.02.2026, 2026 (2) TMI 1022-CESTAT CHENNAI. Even if an ISD registration were thought to be required in a case of this kind, its absence would be a curable procedural lapse and not a ground to deny an admissible credit.

30. We have also considered the observation of the Karnataka High Court in *CCE v. Ecof Industries Pvt. Ltd.*, 2011 (271) E.L.T. 58 (Kar.), as extracted in *Nalco Water India Ltd. v. CCGST & Excise*, 2024-VIL-259-CESTAT-KOL-CE, that a manufacturer having more than one unit who wishes to collect the input service tax paid in all its units at its head office and pass it on should register as an input service distributor. That observation describes the scheme by which credit received at a head office is passed to factories elsewhere, and on its own facts the High Court upheld the credit, holding that Rule 7 contained no restriction of the kind the Revenue sought to impose. The Tribunal decision which the High Court affirmed, *Ecof Industries Pvt. Ltd. v. CCE*, 2010 (17) S.T.R. 515 (Tri.-Bang.), had observed that "the availability of credit therefore is related to the manufacturer of goods or provider of output services as a whole and not restricted to any particular unit of the manufacturer/service provider". Nothing in Ecof Industries suggests that a centrally registered provider of output service, which itself receives and pays for the invoices of its own premises, must first pass the credit through an ISD to itself.
31. The view in OIA I & II that the appellant "ought to have taken Input Service Distributor registration in terms of Rule 7" therefore misconceives the function of that provision. So does the reasoning in

OIO III, which reads Rule 2(l) with Rule 7(c) to hold that credit attributable to one unit cannot be taken in another, and which treated the decisions cited by the appellant as inapplicable because "the current provisions of law read differently". That turns a condition regulating how an ISD distributes credit into a substantive bar against a registrant who has distributed nothing. None of the notices invoked Rule 7, and to the extent that OIO III and OIA I & II made it a ground for denying the credit, they sustained the demand on a basis that the notices did not lay. It is settled that the Revenue cannot do so; see *Commissioner of Customs v. Toyo Engineering India Ltd.*, 2006 (201) E.L.T. 513 (S.C.) and *CCE v. Champdany Industries Ltd.*, 2009 (241) E.L.T. 481 (S.C.), followed by this Bench in *Commissioner of CGST and Central Excise v. Va Tech Wabag Ltd.*, Final Order No. 40624/2025 dated 18.06.2025, reported in 2025 (6) TMI 1361-CESTAT CHENNAI.

32. OIO I & II stands on a somewhat different footing in this respect, and fairness requires that we say so. Its reference to Rule 7, prefaced by the words "though it may be out of context of SCN", was an aside offered in support of its reading of Rule 2(l), namely that cross credit between a manufacturer and a service provider would defeat the scheme of that definition. Its conclusion rested on that reading of Rule 2(l), which was the ground in the notice, and not on Rule 7. The aside was misconceived for the reasons already given, but it would not be right to say that the Adjudicating Authority decided the case on a ground lying outside the notice. The error in the said orders was in confining the definition to its manufacturer limb.
33. Excise Appeal No. 41891 of 2018 relates to April 2016 to June 2017, after Rule 7 was substituted by Notification No. 13/2016-CE (NT) dated 01.03.2016, with effect from 01.04.2016, to provide that the input service distributor "shall distribute" the credit. The definition of an input service distributor in Rule 2(m) was left substantially unchanged by that notification, save for extending it to outsourced manufacturing units. It is necessary to be clear about what the amendment did and did not do and what its effect is on this matter before us. To our mind, what it did is that it made distribution compulsory, but the compulsion is laid upon an input service distributor, that is to say, an office which receives the invoices of

input services and then passes on the credit to the units of the assessee by issuing its own invoices. The substituted rule tells such an office that it must distribute the credit it holds, and how to do it. It does not require a provider of output service to route through an input service distributor the credit on invoices that it receives and pays for at its own registered premises. Nor does it deem such a registrant to be an input service distributor, or oblige it to register as one. In the present case the Tiruvottiyur premises was itself the registered provider of output service under the centralised registration. The invoices relating to the service stations were received, accounted for and paid there, and the credit was taken there. No credit passed from one office to another, and there was therefore nothing to distribute. The mandatory rule simply had nothing on which the appellant had to operate. Show Cause Notice No. 09/2017-18, for its part, did not allege that any of the invoices was received at some other office which ought to have distributed the credit under the amended Rule 7, and it did not invoke Rule 7 at all. It based the demand only on Rule 2(I) and Rule 3(1). The amendment of 01.04.2016 therefore leaves our conclusion for this period undisturbed. Had the notice alleged that the invoices were in fact received at a separate office whose duty it was to distribute the credit, different questions might have arisen. No such case was put to the appellant, and ergo we do not have anything to decide on it.

34. The demands of Rs. 19,60,867/- and Rs. 5,18,223/- (confirmed as Rs. 5,18,662/-) also include credit on services, such as renting of premises, at the marketing and branch offices. Here the appellant's plea was different. It did not claim this credit as a provider of output service. It contended that the marketing and branch offices are engaged in selling the motorcycles it manufactures, that such premises are places of removal within the meaning of Section 4(3)(c) of the Act, and that the services there, including those relating to advertisement and sales promotion, are input services of the manufacturer. We decide this component on that plea alone. The Tribunal cannot allow it on the first limb of Rule 2(I), which the appellant never invoked for it, even though OIA I & II itself recorded that the centralised registration was taken for provision of taxable output services at the marketing offices.

35. Tested on the plea actually made, the demand on this component cannot stand. Section 4(3)(c)(iii) of the Act defines place of removal to include "a depot, premises of a consignment agent or any other place or premises from where excisable goods are to be sold after their clearance from the factory". The second limb of Rule 2(l) extends to services used in relation to clearance of final products upto the place of removal, and its inclusive part expressly covers advertisement or sales promotion and storage upto the place of removal. The appellant's assertion of fact, that the goods are sold from its branch and marketing offices, was neither examined nor controverted. OIO I & II has recorded no finding on this part of the defence at all. OIA I & II has rejected it only by citing *Ispat Industries Ltd.*, which held that the buyer's premises can never be the place of removal. OIA I & II itself understood that decision as holding that the place of removal "can only be the manufacturer's premises or premises referable to manufacturer". The appellant's branch and marketing offices are precisely premises of the manufacturer, and nothing in *Ispat Industries Ltd.* tells against the appellant's plea. A contention of fact and law, specifically raised and left unanswered by both authorities, cannot be brushed aside at the stage of second appeal. This Bench has held that an adjudicating authority is bound to address the contentions raised in the reply and to accept or reject them with reasons, and that a demand confirmed without rebutting them cannot be sustained; see *Hindustan Moulds and Dies Pvt. Ltd. v. Commissioner*, Final Order No. 40388/2025 dated 25.03.2025, reported in 2025 (3) TMI 1243-CESTAT CHENNAI. The notices, moreover, did not segregate this component or allege anything specific about the use of the services at these offices. The demand on the credit relating to the marketing and branch offices is therefore not sustainable. To the extent that it falls within the extended period in Show Cause Notice No. 009/2016, it is also barred by limitation for the reasons given under our discussions further infra.
36. One factual matter we have noticed is that OIO III recorded that the service stations were separately registered, and received credit from the ISD, until 20.04.2014. The certificates on record show a centralised registration from 12.02.2009 covering service centres, with amendments up to 15.10.2014. The period in Excise Appeal No. 41891 of 2018 falls well after 20.04.2014, so nothing turns on the

recital there. As for the earlier period covered by Show Cause Notice No. 009/2016, that notice never alleged that any service station was outside the centralised registration, and for the reasons already stated on the scope of a show cause notice, the Revenue cannot now found a demand on such an allegation.

37. We accordingly hold that the credit of service tax on the input services received at the service stations covered by the centralised registration was admissible to the appellant as a provider of output service. Its taking in the account of the Tiruvottiyur factory, and its utilisation for payment of excise duty, are permitted by Rules 3(1) and 3(4), and the absence of an ISD registration does not detract from that entitlement. The demand on the credit relating to the marketing and branch offices fails for the distinct reasons just stated supra. The demands of Rs. 19,60,867/-, Rs. 5,18,662/- and Rs. 15,81,911/- are unsustainable on merits.
38. Before leaving this issue, we must also notice that OIO I & II confirmed the demand under Show Cause Notice No. 29/2016 in the sum of Rs. 5,18,662/- by invoking Section 11A(4), when the notice had proposed Rs. 5,18,223/- under Section 11A(1). An adjudicating authority cannot confirm a sum larger than that proposed, under a provision that the notice never invoked. That infirmity would by itself vitiate the confirmation to the extent of the excess and the invocation of the extended period, even apart from our finding on merits.

Issue (ii) The ISD credit of Rs. 23,77,934/-

39. Show Cause Notice No. 009/2016 alleged that the ISD's distribution of its entire credit to Tiruvottiyur during March 2013 to March 2014 offended Rule 7(d), under which credit attributable to a service used in more than one unit was to be distributed pro rata on turnover. We are conscious that clause (d) is worded in imperative terms. Two features of this record are, however, decisive. First, clause (d) applied only to credit of a service "used in more than one unit". Where a service was used wholly in one unit, clause (c) required that the credit be distributed only to that unit. The notice assumed, without any enquiry into the services covered by the ISD invoices, that they were common to Tiruvottiyur and Manjambakkam. The appellant's consistent case was that they pertained to its motorcycle manufacture

at Tiruvottiyur and not to the spare parts packing unit. The Chartered Accountant's apportionment on turnover, adopted to meet the audit objection, is not evidence of usage. The foundational fact on which clause (d) could operate was thus never established. This Bench rejected an allegation of the same kind in *The India Cements Ltd. v. Commissioner, Final Order No. 40222/2025 dated 17.02.2025*, reported in 2025 (2) TMI 622-CESTAT CHENNAI, observing that an allegation that ISD distribution was not in accordance with Rule 7 was "a mere assumption" when the notice gave no details of the units to which the credit was distributed or of the pro rata credit worked out on their turnover.

40. Secondly, the eligibility of the services as input services and the quantum of credit distributed are not in dispute, and the ISD's distribution was never questioned at the ISD's end. In *Bharat Heavy Electricals Ltd. v. CCGST & CE, (2026) 39 Centax 405 (Tri.-Mad.)*, Final Order No. 40851/2024 dated 11.07.2024, a coordinate Bench at Chennai declined to deny ISD credit at the recipient's end when the ISD's availment and distribution were undisputed. On the very situation of an ISD distributing its entire credit to one unit after the amendment of 2012, the Principal Bench in *Hindustan Zinc Ltd. v. Commissioner, Final Order No. A/50405/2019 dated 28.02.2019 (for April 2012)* and the Ahmedabad Bench in *Philips Carbon Black Ltd. v. CCE, Final Order No. 12484/2024 dated 23.10.2024 (for April to June 2012)* followed Oerlikon Balzers and held that, before 01.04.2016, there was no compulsion to distribute credit proportionately among all units and that credit distributed wholly to one unit could not be denied. *Exide Industries Ltd. v. CCGST, Final Order No. 60236/2026 dated 09.03.2026 reported in 2026 (3) TMI 350- CESTAT CHANDIGARH*, held likewise for May 2013 to October 2015. We are in respectful agreement with that consistent line, which no contrary decision of a High Court has been shown to disturb. OIA I & II did not engage with this aspect at all. It answered an argument the appellant never made, namely that the amendment of 01.04.2014 was retrospective, and recorded that the appellant was ineligible. We hold that the recovery of Rs. 23,77,934/- from Tiruvottiyur is not sustainable on merits. Its rejection on limitation is dealt with below.

Issue (iii) The credit of Rs. 8,09,021/-

41. The credit of Rs. 8,09,021/- was taken on twenty two invoices for setting up, manpower, advertisement and renting services used exclusively at the Oragadam and Manjambakkam factories, each separately registered under the Act. The appellant has not contested the merits of this part at any stage. In its reply it accepted that the credit was taken by mistake because the invoices were addressed to and paid from Tiruvottiyur, and its grounds before us are confined to limitation, interest and penalty. We therefore proceed on the basis of that concession. We note, without deciding the point, that decisions such as *Raymond Ltd. v. CCE, 2017 (47) S.T.R. 142 (Tri.-Del.)*, following *Greaves Cotton Ltd. v. Commissioner, 2015 (37) S.T.R. 395 (Tri.-Chennai)* and *Ecof Industries*, have allowed credit of services used by one unit of a manufacturer to be taken by another of its units in the absence of any double availment. Since that question was not urged and the appellant itself reversed the credit and passed it to the units concerned, we express no opinion on it. Whether the amount could be recovered by the notice impugned is the question to which we now turn.

Issue (iv) Extended period of limitation

42. Show Cause Notice No. 009/2016 was issued on 03.02.2016. The normal period then prescribed by Section 11A(1), applied to credit recovery through Rule 14, was one year from the relevant date. The demands on the ISD credit and on the credit of the other units relate to December 2012 to March 2014, and the demand on the service stations under this notice falls, on the appellant's computation, within the extended period up to January 2015. The notice could therefore be sustained for those amounts only if one of the ingredients of Section 11A(4) was established. The only grounds stated in the notice are that the facts would not have surfaced but for the audit and that the appellant had not disclosed all the details. The orders below added that the appellant reversed the credit only after the audit.
43. None of these grounds satisfies the statute. The Supreme Court in *Pushpam Pharmaceuticals Company v. CCE, 1995 (78) E.L.T. 401 (S.C.)* and in *Uniworth Textiles Ltd. v. CCE, 2013 (288) E.L.T. 161 (S.C.)* held that suppression means a deliberate withholding of information with intent to evade duty, that mere non disclosure does

not suffice, and that the burden of proving mala fides lies squarely on the Revenue. In *CCE & C v. Reliance Industries Ltd.*, 2023 (385) E.L.T. 481 (S.C.), the Court held that an accusation of non disclosure can be made only if there was, in the first instance, a requirement to disclose. The ER-1 returns, which disclosed the credit taken each month, did not call for invoice wise particulars. The audit objections were raised from the appellant's own records, including the ISD invoices, and the ISD itself filed periodical returns. This Bench has consistently held that where registered assessees file returns, any failure of the jurisdictional officers to scrutinise them cannot be converted into suppression by the assessee; see *AAM India Manufacturing Corporation Pvt. Ltd. v. Commissioner*, Final Order No. 40802/2025 dated 06.08.2025, reported in 2025 (8) TMI 1655-CESTAT CHENNAI and *Exide Industries Ltd. v. Commissioner*, Final Order No. 40664/2025 dated 26.06.2025, reported in 2025 (6) TMI 1960-CESTAT CHENNAI. In a case of ISD credit distributed while ignoring the turnover of one unit, the Principal Bench in *National Engineering Industries Ltd. v. Commissioner of CGST & Central Excise, Jaipur*, Excise Appeal No. 51129 of 2022 decided on 19.08.2025, held that the fact that the matter came to light in audit does not by itself establish suppression with intent to evade, and that a bona fide difference of opinion on eligibility, reflected in self assessment, is not wilful suppression.

44. The treatment of the reversals in OIO I and II and OIA I & II as proof of suppression inverts the law. An assessee who corrects an entry when it is pointed out, and informs the Department in writing, as the appellant did on 13.08.2014, does not thereby confess to an intent to evade. By that letter the Department had every fact before it, including the appellant's refusal to reverse the service station credit and its reasons. Yet the notice came nearly eighteen months later, invoking a period meant for cases of deliberate concealment. The Department also proceeded under the normal period on the identical service station issue in the two later notices, which hardly sits with the charge that the same practice had been suppressed.
45. The absence of any intent to evade is reinforced by the nature of the transactions. The credit of Rs. 23,77,934/- and Rs. 8,09,021/- represented service tax actually paid, to which the Manjambakkam

and Oragadam units of the same assessee were admittedly entitled and which they in fact took once it was reversed at Tiruvottiyur. In *Nirlon Ltd. v. CCE, 2015 (320) E.L.T. 22 (S.C.)*, the Supreme Court observed that when the entire exercise was revenue neutral the assessee could not have achieved any purpose of evasion, and the jurisdictional High Court applied that principle to hold the extended period inapplicable in *CCE v. Tenneco RC India Pvt. Ltd., 2015 (323) E.L.T. 299 (Mad.)*. We have not overlooked *Precision Moulds and Dies v. Commissioner of CGST, 2025 (394) E.L.T. 363 (All.)*, where the plea of revenue neutrality was rejected because accepting it would allow every assessee to withhold duty on the plea that credit would follow. That decision addressed the existence of a liability to pay duty on clearances. Here the question is only whether intent to evade can be imputed when the credit of tax already paid was taken by one unit of an assessee instead of another unit entitled to it. Further, the Rule 7 question was at the very least genuinely arguable, as shown by *Oerlikon Balzers*, by the decisions of this Tribunal that followed it, and by the Board's acceptance of Dashion Ltd. That too excludes any inference of a wilful contravention.

46. We therefore hold that the extended period was not invocable in Show Cause Notice No. 009/2016. The demands of Rs. 23,77,934/- and Rs. 8,09,021/- are barred by limitation in their entirety. In the case of Rs. 23,77,934/-, this is an additional ground to the finding on merits in the discussion on Issue (ii). In the case of Rs. 8,09,021/-, limitation is the sole ground, the appellant having conceded the merits as recorded under Issue (iii). The demand on the service stations, already set aside on merits under Issue (i), is in addition barred by limitation to the extent that it falls beyond the normal period. Show Cause Notice Nos. 29/2016 and 09/2017-18 did not invoke the extended period, and no question of limitation arises in respect of them, save for the unauthorised invocation of Section 11A(4) in OIO I & II noticed earlier.

Issue (v) Interest and penalty

47. Since the credit on the service stations was rightly taken, no interest is payable on it. As regards the credit of Rs. 23,77,934/- and Rs. 8,09,021/-, a demand for interest made by a notice that is itself barred by limitation cannot survive. Having so held, we do not find it

necessary to decide the appellant's alternative contention that interest is not payable at all in a revenue neutral situation, on which the decision in *CCE v. Steel Authority of India Ltd.*, 2026-TIOL-21-HC-KOL-CX were cited at the Bar, and we express no opinion on it.

48. The penalty of Rs. 51,47,822/- under Rule 15(2) read with Section 11AC was premised on fraud, suppression or wilful misstatement with intent to evade duty. That premise has failed, and the penalty cannot stand. We note in passing that it was imposed in full even on Rs. 31,86,955/- that the appellant had reversed and intimated more than a year before the notice. The penalties of Rs. 51,860/- and Rs. 4,75,000/- under Rule 15(1) are also untenable and liable to be set aside. As regards the latter, we cannot help observing that Rule 15(1), as it then stood, provided for penalty in terms of clause (a) or clause (b) of Section 11AC(1), and that clause (a), which alone the notice invoked, caps the penalty at ten per cent of the duty determined or five thousand rupees, whichever is higher. On a demand of Rs. 15,81,911/-, the ceiling was Rs. 1,58,191/-. A penalty of Rs. 4,75,000/-, three times the statutory maximum, was imposed without any authority of law, and the Appellate Authority affirmed it without comment. The contention that OIA III failed to deal with the written submissions of 03.04.2018 does not call for a decision in view of our findings on merits.
49. In sum, we find that the impugned orders proceed on a fundamental misdirection in law. They tested the credit of a provider of output service by the standard applicable to a manufacturer alone, and left unanswered the appellant's plea on the marketing and branch offices. OIO I & II confirmed a demand larger than the one proposed under a provision not invoked, and invoked the extended period on reasoning that the Supreme Court has repeatedly rejected. OIO III set aside a binding decision of this Bench by a distinction without substance and imposed a penalty beyond the statutory ceiling. The Appellate Authority affirmed all of this without independent scrutiny. Applying the law and the precedents discussed above, the demand on the service stations and on the marketing and branch offices fails on merits in all three appeals. The ISD credit fails both on merits and on limitation. The credit of the other units, the merits of which the

appellant conceded, is barred by limitation. The consequential demands of interest and penalties cannot survive.

50. One consequence requires to be stated expressly. The appellant's own case is that Rs. 23,77,934/- and Rs. 8,09,021/-, reversed at Tiruvottiyur, have been taken as credit by its Manjambakkam and Oragadam units. The setting aside of the demand and of the appropriation does not entitle the appellant to take that credit afresh at Tiruvottiyur or to seek its refund, since that would allow the same credit to be enjoyed twice. We therefore make it clear and direct that the sums of Rs. 23,77,934/- and Rs. 8,09,021/- reversed by the appellant, having been availed by its Manjambakkam and Oragadam units, shall not be taken as credit afresh or refunded to the appellant.
51. In the light of our aforesaid discussions and analysis, the Appeals are allowed and the orders impugned are set aside.

The appellant, save to the extent of our directions above, shall be entitled to consequential relief in law, if any.

(Order pronounced in open court on 15.10.2026)

(AJAYAN T.V.)
MEMBER (JUDICIAL)

(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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