

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

REGIONAL BENCH – COURT No. III

**Excise Appeal No. 221 of 2009**

(Arising out of Order-in-Original No. 3/2009 dated 09.02.2009 passed by Commissioner of GST and Central Excise, No. 1, Williams Road, Cantonment, Tiruchirappalli – 620 001)

**M/s. Madras Cements Limited**

Alathiyur Works,  
Cement Nagar Post,  
Perambalur – 621 730.

**...Appellant**

***Versus***

**Commissioner of GST and Central Excise**

Tiruchirappalli Commissionerate,  
No. 1, Williams Road,  
Cantonment,  
Trichy – 620 001.

**...Respondent**

**APPEARANCE:**

For the Appellant : Mr. R. Parthasarathy, Consultant

For the Respondent : Mr. Sanjay Kakkar, Authorised Representative

**CORAM:**

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)**

**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

**FINAL ORDER No. 40053 / 2026**

DATE OF HEARING : 19.12.2025

DATE OF DECISION : 09.01.2026

**Per Mr. VASA SESHAGIRI RAO**

This appeal has been filed by M/s. Madras Cements Ltd. (now known as The Ramco Cements Ltd.), Alathiyur Cement Works, Ariyalur District (hereinafter referred to as "the Appellant"), against Order-in-Original No. 1/2009 dated 09.02.2009 passed by the Commissioner of Central Excise, Tiruchirappalli (hereinafter referred to as "the

impugned order”), whereby the adjudicating authority confirmed recovery of CENVAT credit availed on outward transportation (GTA) services along with interest and imposed penalty under the provisions of the CENVAT Credit Rules, 2004 and the Central Excise Act, 1944.

1.2 The Appellant, M/s. Madras Cements Ltd. (now known as The Ramco Cements Ltd.), is engaged in the manufacture of cement falling under Chapter 25 of the Central Excise Tariff Act, 1985 and is duly registered with the Central Excise Department.

1.3 During the period November 2007 to September 2008, the Appellant cleared cement from its factory and depots to dealers/customers under contracts claimed to be on FOR destination basis, wherein, according to the Appellant, the freight formed an integral part of the sale price and ownership in goods said to have been passed on to the buyer only upon delivery at destination.

1.4 The Appellant availed CENVAT credit of service tax paid under reverse charge on GTA services used for outward transportation of cement from factory/depots to buyers’ premises.

1.5 A Show Cause Notice dated 26.11.2008 was issued proposing recovery of ₹2,32,96,995/- along with interest and equal penalty on the ground that outward transportation beyond the place of removal did not qualify as "input service" under Rule 2(I) of the CENVAT Credit Rules, 2004.

1.6 The demand was confirmed by the Commissioner *vide* Order-in-Original dated 09.02.2009, holding that the place of removal was the factory gate and that GTA credit beyond such point was inadmissible. Being aggrieved, the Appellant filed the present appeal before this Tribunal.

2.1 It is further seen that this appeal was earlier disposed of by this Tribunal *vide* Final Order dated 27.07.2011, wherein the matter was remanded to the adjudicating authority for fresh consideration in the light of the then prevailing legal position. Aggrieved by the said remand order, the Department preferred Civil Miscellaneous Appeal No. 1890 of 2012 before the Hon'ble High Court of Madras. The Hon'ble High Court, by its judgment dated 24.01.2020, set aside the order of remand and directed this Tribunal to decide the appeal afresh in accordance with law, keeping in view the subsequent developments and binding judicial precedents.

2.2 Pursuant to the aforesaid directions of the Hon'ble High Court, the Appellant filed an application for restoration of the appeal along with an application for early hearing. After hearing both sides, this Tribunal allowed the Restoration of Appeal (ROA) and Early Hearing (EH) applications vide Miscellaneous Order dated 28.11.2025, restoring the appeal to its original number.

2.3 Upon such restoration, and having regard to the fact that the issue involved stands substantially settled by the Larger Bench of this Tribunal as well as subsequent decisions rendered in the Appellant's own case, the appeal was taken up for final disposal on priority and heard on merits.

3. The Ld. Consultant Mr. Parthasarathy appeared on behalf of the Appellant and advanced detailed submissions in support of the appeal and the Ld. Authorized Representative Mr. Sanjay Kakkar, appeared for the Revenue and defended the Impugned Order.

4. The Ld. Consultant Mr. Parthasarathy, made the following submissions which are summarized as below: -

4.1 Firstly, he has argued that the issue is no longer *res integra*, having been conclusively settled by the Larger

Bench of CESTAT Chennai in *Ramco Cements Ltd. v. CCE, Puducherry, 2023 (12) TMI 1332 (CESTAT Chennai-LB)*, which squarely covers the Appellant's case.

4.2 For the period prior to 01.04.2008, outward transportation up to the buyer's premises is admissible as "input service", as held by the Hon'ble Supreme Court in: -

- i. *Vasavadatta Cements Ltd. [2018 (11) GSTL 3 (SC)]*
- ii. *Andhra Sugars Ltd. [2018 (10) GSTL 12 (SC)]*

4.3 Even post-01.04.2008, where sales are on FOR destination basis, the place of removal shifts to the buyer's premises, making GTA services up to such point eligible for credit.

4.4 The Karnataka High Court's decision in *Bharat Fritz Werner Ltd. v. CCE* authoritatively holds that in FOR contracts, buyer's premises would constitute the place of removal.

4.5 The said judgment has been followed and applied by the CESTAT Chennai Larger Bench and has thus attained finality which is binding on the Bench.

4.6 The Board itself, *vide* Circular No. 1065/4/2018-CX dated 08.06.2018, accepted that determination of “place of removal” is a factual exercise based on sale terms.

4.7 In the Appellant’s own case, for subsequent periods, proceedings were dropped *vide* Order-in-Original No. 06/COMMR/CE/2024-25 dated 27.02.2025, following the Larger Bench ruling.

5. The Ld. Authorized Representative Mr. Sanjay Kakkar reiterated the findings of the impugned order.

6. We have carefully heard the submissions advanced by both sides, examined the appeal records in detail, considered the statutory provisions, and the case Laws cited.

7. Upon such comprehensive consideration, the following issues arise for our determination in this appeal as to whether: -

- i. What is the “place of removal” in the case of FOR destination sales?
- ii. Whether GTA services used for outward transportation are eligible for CENVAT credit:
  - a. prior to 01.04.2008, and

b. after 01.04.2008?

iii. Whether the issue stands concluded by binding precedent in the Appellant's own case?

Issue (i): Determination of "Place of Removal" in FOR Contracts

8.1 We find that the determination of the "place of removal" under Section 4(3)(c) of the Central Excise Act, 1944 is a mixed question of fact and law and cannot be mechanically or presumptively fixed at the factory gate in all cases. The Larger Bench of this Tribunal in *Ramco Cements Ltd. v. CCE, Puducherry, 2023 (12) TMI 1332 (CESTAT Chennai-LB)*, has authoritatively held that the "place of removal" must be determined by examining the terms of sale, transfer of title, assumption of risk during transit, and inclusion of freight in the assessable value, applying the principles laid down by the Hon'ble Supreme Court in *Emco Ltd., 2015 (8) TMI 200 (SC)* and *Roofit Industries Ltd., 2015 (4) TMI 857 (SC)*, the judgment of the Hon'ble Karnataka High Court in *Bharat Fritz Werner Ltd., 2022 (7) TMI 352 (Kar.)*, and CBIC Circular No. 1065/4/2018-CX dated 08.06.2018.

8.2 In *Bharat Fritz Werner Ltd.*, the Hon'ble Karnataka High Court categorically held that where goods

are sold on FOR destination basis and the property in the goods passes only upon delivery at the buyer's premises, such buyer's premises constitute the "place of removal".

8.3 We note that the Appellant has consistently contended that the disputed clearances were effected on FOR destination basis, with freight forming an integral part of the sale price and ownership and risk remaining with the Appellant until delivery at the buyer's premises. However, the impugned order proceeds on a blanket assumption that the factory gate is the place of removal, without undertaking any factual examination of the underlying sale contracts, purchase orders, invoices, transport documents, or other relevant records.

8.4 The Larger Bench in Ramco Cements Ltd. has unequivocally held that the determination of the "place of removal" is a fact-based exercise, requiring verification of contractual terms governing transfer of title, risk during transit, inclusion of freight in assessable value, and the point at which sale is completed.

8.5 CBIC Circular No. 1065/4/2018-CX dated 08.06.2018 also mandates that adjudicating authorities must

determine the "place of removal" based on factual parameters emerging from contracts and invoices, and not by applying a uniform presumption. In the present case, such an exercise has admittedly not been undertaken.

8.6 In these circumstances, and in the interest of justice, we consider it appropriate to remand the matter for a limited factual verification to ascertain:

- i. Whether the clearances during the disputed period were effected on FOR destination basis;
- ii. Whether freight formed an integral part of the sale price; and
- iii. Whether ownership and risk in the goods were transferred only at the buyer's premises.

8.7 Upon such verification, the adjudicating authority shall determine the "place of removal" strictly in accordance with the law laid down by the Hon'ble Supreme Court, the Hon'ble Karnataka High Court in Bharat Fritz Werner Ltd., the Larger Bench of this Tribunal in Ramco Cements Ltd., and CBIC Circular dated 08.06.2018.

8.8 Accordingly, if it is found that the clearances were effected on FOR destination basis and that ownership

and risk passed only at the buyer's premises, such buyer's premises shall constitute the "place of removal".

Issue (ii): Eligibility of CENVAT Credit on GTA Services

9.1 The eligibility of CENVAT credit on GTA services for outward transportation is consequential and inseparably linked to the determination of the "place of removal" under Issue (i) above.

(a) Period prior to 01.04.2008

9.2 For the period prior to 01.04.2008, the law stands conclusively settled by the Hon'ble Supreme Court in *Vasavadatta Cements Ltd., 2018 (11) GSTL 3 (SC)* and *Andhra Sugars Ltd., 2018 (10) GSTL 12 (SC)*, holding that outward transportation up to the "place of removal" qualifies as "input service" under Rule 2(I) of the CENVAT Credit Rules, 2004.

9.3 In the Appellant's own case, this Tribunal, *vide* Final Order Nos. 40174-40176/2022 dated 18.05.2022, has expressly held in Para 13 of the Order that CENVAT credit on GTA services for outward transportation from the place of removal up to the buyer's premises is admissible up to

31.03.2008, subject to factual verification of FOR destination sales.

(b) Period after 01.04.2008

9.4 Even after the amendment to Rule 2(I) with effect from 01.04.2008, the Larger Bench in Ramco Cements Ltd. has held that where sales are effected on FOR destination basis and the buyer's premises constitute the "place of removal", GTA services used up to such place remain eligible for CENVAT credit.

9.5 This position has been consistently followed by the Chennai Bench in *Inox Air Products Pvt. Ltd., 2024 (2) TMI 1300 (CESTAT Chennai)* as well as in the Appellant's own case *vide* Final Order No. FO/A/41002/2025-EX (DB) dated 10.09.2025. The Hon'ble Himachal Pradesh High Court in *Inox Products, 2024 (4) TMI 32 (HP)*, has also endorsed this view.

9.6 Therefore, GTA services used for outward transportation up to the buyer's premises shall be eligible for CENVAT credit subject to factual verification that such premises constitute the "place of removal" as determined under Issue 8 (i) above.

### Issue (iii): Binding Nature in Appellant's Own Case

10.1 We further note that for subsequent periods involving identical facts and contracts, the jurisdictional Commissioner himself has dropped proceedings against the Appellant *vide* Order-in-Original No. 06/COMMR/CE/2024-25 dated 27.02.2025 by following the Larger Bench decision.

10.2 In such circumstances, judicial discipline and consistency require that the same view be adopted for the present period as well, particularly when there is no change in facts or law. Any deviation would result in uncertainty and arbitrariness.

10.3 While the issue stands settled in principle by the Larger Bench and subsequent decisions in the Appellant's own case, the factual requirement of establishing FOR destination sales must still be satisfied for the disputed period.

### Conclusion

11.1 In view of the foregoing discussion, we hold as a matter of law that: -

- i. The determination of the "place of removal" is a fact-based exercise and cannot be mechanically fixed at the factory gate;

- ii. In cases where sales are established to be on FOR destination basis and ownership and risk pass only upon delivery, the buyer's premises constitute the "place of removal";
- iii. GTA services used for outward transportation up to such place qualify as "input service" under Rule 2(I) of the CENVAT Credit Rules, 2004, both prior to and after 01.04.2008; and
- iv. The impugned Order-in-Original, having been passed without undertaking the mandatory factual examination, is unsustainable in law.

11.2 Accordingly, the impugned Order-in-Original is set aside, and the matter is remanded to the adjudicating authority solely for the limited purpose of examining the sale contracts, purchase orders, invoices, transport documents and allied records to determine whether the disputed clearances were effected on FOR destination basis and whether the buyer's premises constitute the "place of removal".

11.3 Upon such verification, the adjudicating authority shall re-determine the admissibility of CENVAT credit on GTA services strictly in accordance with the law laid down by the Hon'ble Supreme Court, the Hon'ble Karnataka High Court in

Bharat Fritz Werner Ltd., the Larger Bench of this Tribunal in Ramco Cements Ltd., and CBIC Circular dated 08.06.2018.

11.4 The remand shall remain strictly confined to the above factual verification. No fresh issues shall be raised, and no penalty shall be imposed without independent findings in accordance with law.

12. The appeal is allowed by way of remand on the above terms.

(Order pronounced in open court on 09.01.2026)

Sd/-  
**(VASA SESHAGIRI RAO)**  
MEMBER (TECHNICAL)

Sd/-  
**(P. DINESHA)**  
MEMBER (JUDICIAL)

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