Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad

REGIONAL BENCH-COURT NO. 1

Excise Appeal No. 11061 of 2019-DB

(Arising out of OIA-RAJ-EXCUS-000-APP-018-2019 Dated 19/03/2019 passed by the Commissioner (Appeals) CGST & Central Excise -RAJKOT)

COMMISSIONER OF CGST &
CENTRAL EXCISE- RAJKOT **........Appellant**
CGST Bhavan, Race Course Ring Road,
Rajkot, Gujarat- 360001

VERSUS

METAL ALLOYS CORPORATION **........Respondent**
Plot No 6 & 7
Survey No 232/233/236/237
Vukkage Kajgabavad
Jamnagar, Gujarat

APPEARANCE:
Shri A R Kanani, Superintendent (AR) appeared for the Appellant
Shri Paritosh Gupta, Advocate appeared for the Respondent

CORAM:
HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA
HON'BLE MEMBER (TECHNICAL), MR. SATENDRA VIKRAM SINGH

Final Order No. 10182/2026

DATE OF HEARING: 14.11.2025
DATE OF DECISION: 13.03.2026

SATENDRA VIKRAM SINGH

The Revenue has filed this appeal against impugned order passed by the Commissioner (Appeals), CGST and Central Excise, Rajkot wherein he had upheld the order of the lower authority and rejected the appeal filed by the Department.

1.1 M/s Metal Alloys Corporation (Respondent) are engaged in the manufacture of Brass falling under Chapter 74 of the Central Excise Tariff Act, 1985 as well as processing of raw materials or semi-finished goods on job work basis. The goods manufactured on Jobwork basis for Indian Ordinance factory were finally exempted from duty under Notification No. 70/1992-CE dated 17.06.1992 as amended vide notification No. 66/1995-CE dated 16.03.1995. They are availing Cenvat credit under Cenvat Credit Rules, 2004 (hereinafter referred to as the "CCR, 2004"). The issue was that the respondent was using LPG which is common input for both dutiable goods as well as exempted goods. The department therefore issued a show cause notice to the respondent on 3rd May, 2017 proposing recovery of Cenvat Credit of Rs. 91,97,469/- @6%/7% of value of exempted goods/ exempted services under Rule 6(3) of the CCR, 2004 read with Rule 14 of the CCR, 2004 and Section 11A(4) of the Central Excise Act, 1944 along with interest under Rule 14 read with Section 11AA and penalty under Rule 15(2) of CCR, 2004 read with Section 11AC of the Central Excise Act, 1944. Annexure-A to the show cause notice gives details of the amount proposed to be recovered as per Rule 6(3) of CCR, 2004.

1.2 In Adjudication proceedings, learned Adjudicating Authority in para 5.5 noted that the respondent had reversed proportionate Cenvat Credit of Rs. 1,09,181/- along with interest of Rs. 60,157/- on 07.07.2017 on LPG which is common input used for manufacture of dutiable as well as exempted goods. While setting aside the demand, he relied on the decision of Hon'ble Supreme Court in the case of M/s Chandrapur Magnets Wires (P) Ltd. reported at 1995 (81) ELT 3 (SC) and the decision of CESTAT Mumbai in the case of M/s. Marcedes Benz India Ltd Vs. CCE, Pune-I, reported at 2015 (40) STR 381 and accepted proportionate reversal of credit along with interest. Aggrieved with the above order, Revenue filed before the Commissioner (Appeals) who rejected the department's appeal by upholding the order of the Adjudicating Authority. Therefore, Revenue filed the present appeal before this Tribunal.

2. In their appeal, Revenue has mentioned the following points: -

- As per Rule 6(1) of the Cenvat Credit Rules, 2004, Cenvat credit shall not be allowed on such quantity of inputs as is used in or in relation to the manufacture of exempted goods or for provision of exempted services. In case, a manufacturer uses inputs and/or input services for manufacture of exempt as well as dutiable goods or for providing exempt as well as taxable services, he shall maintain a separate account as per rule 6(2) of CCR, 2004. In case, such manufacturer is not able to maintain separate account, he shall follow the provisions of Rule 6(3) of the CCR, 2004, The provision of this Rule have been amended from time to time, but the crux is that if a manufacture does not maintain separate account for receipt, consumption and inventory of inputs as per Sub-rule (2), he shall pay an amount equal to 6% of the value of the exempted goods; or pay an amount as determined under Sub-rule (3A) of this rule.

- For availing the benefit of sub-Rule (3A), a manufacture has to give option by intimating in writing to the Jurisdictional Range Superintendent particulars such as name, address and registration number, date from which option under this clause is exercised or proposed to be exercised, description of dutiable goods or taxable services, description of exempted goods are exempted services and Cenvat credit on inputs and input services lying in balance.
- W.e.f. 01.04.2016, Sub-rule (3A) has been substituted to provide a detailed method of calculation of amount to be reversed by the manufacturer in case, option to reverse credit on proportionate basis is exercised.
- The lower authorities have accepted proportionate reversal of credit made by the respondent in 2017, which should have been done in the respective year itself (to which it pertained) and the manufacturer should have exercised the option and submitted prior intimation to the Jurisdictional Range Superintendent. In this case, no such option was excised by the appellant and therefore, accepting belated reversal of credit on proportionate basis is against the provisions of CCR, 2004
- They rely on the decision of Hon’ble Apex Court in the case of Uttam Industries reported at 2011 (265) ELT 14 (SC), wherein it has been held that in order to get benefit of any notification granting exemption, the

claimant has to satisfy the eligibility criteria. Similar decisions were given in the case of Punjab State Sports Council reported at 2011 (269) ELT 540 (Tri-Mum.), Cargill India Pvt Ltd. reported at 2013 (288) ELT 209 (Guj.) and Dilip Kumar & Company reported at 2018 (361) ELT 577 (SC).

- The Revenue also relied on the decision in the case of CCE Thane Vs. Nicholas Piramal (Ind) Ltd reported at 2009 (244) ELT 321 (Bom.) wherein Hon'ble Bombay High Court has held that allowing reversal of credit on inputs on proportionate basis instead of allowing reversal @ 8%/10% of the price of exempted goods is not right. The Revenue also relied on the decision in the case of Synise Technologies Ltd reported at 2015 (39) STR 903 (Tri.-Mumbai) wherein it was held that trading not being an output service, credit cannot be allowed on input services used for trading.
- In the case of Lally Automobiles Pvt Ltd reported at 2018 (10) GSTL 310 (Tri.-Delhi), it was held that the appellant should not have availed any credit on input services when such services are attributable to an activity which is not at all taxable and hence, not covered by the scope of Cenvat Credit Rules, 2004. In this case also, the activity done by the party was trading which was not a taxable activity.
- Reliance by Appellate Authority on the decision in the case of M/s Aster Pvt Ltd reported at 2016 (43) STR 411 (Tri. -Hyd.), M/s. Reliance Life Insurance Co. Ltd. reported at 2018(363) ELT 1050(Tri-Mumbai), M/s. Mercedes Benz India Pvt. Ltd. reported at 2015(40) STR 381(Tri-Mumbai), M/s. Max New York Life Insurance Co. Ltd. reported at 2017 TIOL-2385-CESTAT-Delhi are misplaced and not applicable in the present case.

They requested to set aside the order passed by the Appellate Authority as well as the Adjudicating Authority and confirm the demand of Rs. 91,97,569/- along with interest and penalty as proposed in the show cause notice.

3. During arguments, learned Authorised representative highlighted the provisions of Rule 6 of the CCR, 2004 and mentioned that exercising option

under Rule 6(3A) by intimating the Jurisdictional Range Superintendent is a substantive requirement of Law and not a procedural requirement because only on receipt of such option, the department would be knowing whether the manufacturer is intending to reverse credit on proportionate basis as otherwise, they would be required to reverse credit on lump sum basis @6%/7% of the value of exempted goods and/or exempted services. He reiterated the decision of Hon'ble Gujarat High Court in the case of Cargill India Pvt ltd Vs. UOI (cited supra) to plead that the exemption notification has to be interpreted strictly. Same finding was given by Hon'ble Apex Court in the case of Eagle Flask Industries Ltd Vs. CCE, Pune reported at 2004 (171) ELT 296 (SC) wherein it was held that "condition of filing declaration/ undertaking under exemption notification not merely procedural hence, exemption to be denied for non-observance of said conditions".

3.1 Regarding reliance on the final order No. A/10232/2019 dated 12.02.2019 in the case of Associated Power Structure Pvt Ltd Vs. CCE and ST, Vadodara-I, Learned AR pleaded that a manufacturer is liable to reverse lump sum amount as per Rule 6(3)(i) of the CCR, 2004, in respect of exempted goods cleared by them.

4. Opposing the prayer of Revenue, Learned Counsel appearing for the respondent pleaded that the adjudicating authority as well as the Appellate authority have correctly decided the matter in their favour which does not need any interference. The respondent had reversed the credit on proportionate basis along with interest which was also accepted by the lower authorities. The department's argument that filing of intimation was a mandatory requirement under CCR, 2004, is not correct as the decision of Hon'ble Supreme Court in the referred cases is applicable for exemption notifications issued under Section 5A of the Central Excise Act, 1944. He pleads that exercising option by giving intimation to the Jurisdictional Range

Superintendent regarding reversal of Cenvat credit on proportionate basis is only a procedural need which has been allowed by the learned Adjudicating authority as well as Appellate authority. He therefore, pleads that the Revenue's appeal may be dismissed. He relied on the following decisions:-

1) Chandrapur Magnet Wires (P) Ltd. Vs. Collector OF C. Excise, Nagpur-1996 (81) E.L.T. 3 (S.C.)
2) Hello Minerals Water (P) Ltd. V. UOI-2004 (174) E.L.T. 422 (ALL.)
3) Commissioner of Central Excise, Ahmedabad-II Vs. Maize Products-2009 (234) E.L.T. 431 (GUJ.)
4) Mercedes Benz India (P) Ltd. Vs. Commissioner of C. Ex., Pune-I -2015 (40) S.T.R. 381 (TRI. MUMBAI)
5) Jubilant Motor Works (South) Pvt. Ltd. Vs. Commissioner of GST & Central Excise, Chennai- (2024) 17 CENTAX 239 (TRI. -MAD)
6) Sanofi India Ltd. Vs. Commissioner of Central Excise and Service Tax, Surat-II-(2023) 5 CENTAX 270 (TRI.-AHMD)
7) Commissioner of Central GST and Cx. Vs. Himmat Glazed Tiles-2018 (15) G.S.T.L. 486 (GUJ.)
8) Welspun Corp. Ltd. Vs. Commissioner of Central Excise, Kutch- 2019 (368) E.L.T. 179 (TRI. - AHMD.)
9) Bombay Minerals Ltd. Vs. Commr. of C.E. & S.T., RAJKOT- 2019 (29) G.S.T.L. 361 (TRI. - AHMD.)
10) Tiara Advertising Vs. UOI- 2019 (30) G.S.T.L. 474 (Telangana)
11) Jai Balaji Industries Ltd. Vs. Commissioner of C. EX. & S.T., Raipur-2017 (352) E.L.T. 86 (TRI. - DEL.)
12) Aster Pvt. Ltd. Vs. Commissioner of Customs & C. EX., Hyderabad-III- 2016 (43) S.T.R. 411 (Tri. - Hyd.)

5. We have heard both the sides. Short issue to be decided in this case is whether exercising option for reversal of credit by filing intimation with the

Jurisdictional Range Superintendent as per Rule 6(3A) of the CCR, 2004 is mandatory requirement of a procedural?

5.1 We find that Rule 6(3A) provides as under: -

"(3A) For determination and payment of amount payable under clause (ii) of sub-rule (3), the manufacturer of goods or the provider of output service shall follow the following procedure and conditions, namely: -

(a) while exercising this option, the manufacturer of goods or the provider of output service shall intimate in writing to the Superintendent of Central Excise giving the following particulars, namely:

(i) name, address and registration No. of the manufacturer of goods or provider of output service;

(ii) date from which the option under this clause is exercised or proposed to be exercised;

(iii) description of dutiable goods or [output] services;

(iv) description of exempted goods or exempted services;

(v) CENVAT credit of inputs and input services lying in balance as on the date of exercising the option under this condition;

(b) the manufacturer of goods or the provider of output service shall, determine and pay, provisionally, for every month, -

(i) the amount equivalent to CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods, denoted as A:

(ii) the amount of CENVAT credit attributable to inputs used for provision of exempted services (provisional) (B/C) multiplied by D, where B denotes the total value of exempted services provided during the preceding financial year, C denotes the total value of dutiable goods manufactured and removed plus the total value of [output] services provided plus the total value of exempted services provided, during the preceding financial year and D denotes total CENVAT credit taken on inputs during the month minus A;

(iii) the amount attributable to input services used in or in relation to manufacture of exempted goods "land their clearance upto the place of removal] or provision of exempted services (provisional) (E/F) multiplied by G, where E denotes total value of exempted services provided plus the total value of exempted goods manufactured and removed during the preceding financial year. F denotes total value of [output] and exempted services provided, and total value of dutiable and exempted goods

manufactured and removed, during the preceding financial year, and G denotes total CENVAT credit taken on input services during the month;

(c) the manufacturer of goods or the provider of output service, shall determine finally the amount of CENVAT credit attributable to exempted goods and exempted services for the whole financial year in the following manner, namely:

(i) the amount of CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods, on the basis of total quantity of inputs used in or in relation to manufacture of said exempted goods, denoted as H;

(ii) the amount of CENVAT credit attributable to inputs used for provision of exempted services = (1/K) multiplied by L, where] denotes the total value of exempted services provided during the financial year, K denotes the total value of dutiable goods manufactured and removed plus the total value of [output] services provided plus the total value of exempted services provided, during the financial year and L denotes total CENVAT credit taken on inputs during the financial year minus H;

(iii) the amount attributable to input services used in or in relation to manufacture of exempted goods and their clearance upto the place of removal) or provision of exempted services= (M/N) multiplied by P, where [M] denotes total value of exempted services provided plus the total value of exempted goods manufactured and removed during the financial year, [N] denotes total value of [output] and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during the financial year, and [P] denotes total CENVAT credit taken on input services during the financial year;

(d) the manufacturer of goods or the provider of output service, shall pay an amount equal to the difference between the aggregate amount determined as per condition (c) and the aggregate amount determined and paid as per condition (b), on or before the 30th June of the succeeding financial year, where the amount determined as per condition (c) is more than the amount paid;

(e) the manufacturer of goods or the provider of output service, shall, in addition to the amount short paid, ***be liable to pay interest at the rate of twenty-four per cent per annum from the due date, i.e., 30th June till the date of payment, where the amount short-paid is not paid within the said due date****:*

(f) where the amount determined as per condition (c) is less than the amount determined and paid as per condition (b), the said manufacturer of goods or the provider of output service may adjust the excess amount on his own, by taking credit of such amount;

(g) the manufacturer of goods or the provider of output service shall intimate to the jurisdictional Superintendent of Central Excise, within a period of fifteen days from the date of payment or adjustment, as per condition (d) and (1) respectively, the following particulars, namely

(i) details of CENVAT credit attributable to exempted goods and exempted services, monthwise, for the whole financial year, determined provisionally as per condition (b),

(ii) CENVAT credit attributable to exempted goods and exempted services for the whole financial year, determined as per condition (c),

(iii) amount short paid determined as per condition (d), alongwith the date of payment of the amount short-paid,

(iv) interest payable and paid, if any, on the amount short-paid, determined as per condition (e). and

(v) credit taken on account of excess payment, if any, determined as per condition (f);

(h) where the amount equivalent to CENVAT credit attributable to exempted goods or exempted services cannot be determined provisionally, as prescribed in condition (b), due to reasons that no dutiable goods were manufactured and no [output] service was provided in the preceding financial year, then the manufacturer of goods or the provider of output service is not required to determine and pay such amount provisionally for each month, but shall determine the CENVAT credit attributable to exempted goods or exempted services for the whole year as prescribed in condition (C) and pay the amount so calculated on or before 30th June of the succeeding financial year.

(i) where the amount determined under condition (h) is not paid within the said due date, i.e., the 30th June, the manufacturer of goods or the provider of output service shall, in addition to the said amount, be liable to pay interest at the rate of twenty four per cent, per annum from the due date till the date of payment."

5.2 W.e.f. 01.04.2016 vide Notification No. 23/2016-CE(NT) dated 01.04.2016, sub-rule (3A) of Rule 6 was amended as follows: -

"[(3A) For determination of amount required to be paid under clause (ii) of sub-rule (3), the manufacturer of goods or the provider of output service shall follow the following procedure and conditions, namely: -

(a) the manufacturer of goods or the provider of output service shall intimate in writing to the Superintendent of Central Excise giving the following particulars, namely: -

(i) name, address and registration number of the manufacturer of goods or provider of output service;

(ii) date from which the option under this clause is exercised or proposed to be exercised;

(iii) description of inputs and input services used exclusively in or in relation to the manufacture of exempted goods removed or for provision of exempted services and description of such exempted goods removed and such exempted services provided;

(iv) description of inputs and input services used exclusively in or in relation to the manufacture of non-exempted goods removed or for the provision of non-exempted services and description of such non-exempted goods removed and non-exempted services provided;

(v) CENVAT credit of inputs and input services lying in balance as on the date of exercising the option under this condition;

(b) the manufacturer of final products or the provider of output service shall determine the credit required to be paid, out of this total credit of inputs and input services taken during the month, denoted as T, in the following sequential steps and provisionally pay every month, the amounts determined under subclauses (i) and (iv), namely: -

(i) the amount of CENVAT credit attributable to inputs and input services used exclusively in or in relation to the manufacture of exempted goods removed or for provision of exempted services shall be called ineligible credit, denoted as A, and shall be paid;

(ii) the amount of CENVAT credit attributable to inputs and input services used exclusively in or in relation to the manufacture of non-exempted goods removed or for the provision of nonexempted services shall be called eligible credit, denoted as B, and shall not be required to be paid;

(iii) credit left after attribution of credit under sub-clauses (i) and (ii) shall be called common credit, denoted as C and calculated as,-

$C = T - (A + B);$

Explanation. - Where the entire credit has been attributed under sub-clauses (i) and (ii), namely ineligible credit or eligible credit, there shall be left no common credit for further attribution.

(iv) the amount of common credit attributable towards exempted goods removed or for provision of exempted services shall be called ineligible common credit, denoted as D and calculated as follows and shall be paid, -

$D=(E/F) \times C;$

where E is the sum total of –

(a) value of exempted services provided; and

(b) value of exempted goods removed, during the preceding financial year;

where F is the sum total of –

(a) value of non-exempted services provided,

(b) value of exempted services provided,

(c) value of non-exempted goods removed, and

(d) value of exempted goods removed, during the preceding financial year:

Provided that where no final products were manufactured or no output service was provided in the preceding financial year, the CENVAT credit attributable to ineligible common credit shall be deemed to be fifty per cent. of the common credit;

(v) remainder of the common credit shall be called eligible common credit and denoted as G, where,- G = C - D;

(vi) where manufacturer or the provider of the output service fails to pay the amount determined under sub-clause (i) or sub-clause (iv), he shall be liable to ***pay the interest from the due date of payment till the date of payment of such amount, at the rate of fifteen per cent. per annum;***

(c) the manufacturer or the provider of output service shall determine the amount of CENVAT credit attributable to exempted goods removed and provision of exempted services for the whole of financial year, out of the total credit denoted as T (Annual) taken during the whole of financial year in the following manner, namely :-

(i) the CENVAT credit attributable to inputs and input services used exclusively in or in relation to the manufacture of exempted goods removed or for provision of exempted services on the basis of inputs and input services actually so used during the financial year, shall be called Annual ineligible credit and denoted as A(Annual);

(ii) the CENVAT credit attributable to inputs and input services used exclusively in or in relation to the manufacture of non-exempted goods removed or for the provision of non-exempted services on the basis of inputs and input services actually so used shall be called Annual eligible credit and denoted as B(Annual);

(iii) common credit left for further attribution shall be denoted as C(Annual) and calculated as, - C(Annual) = T(Annual) – [A(Annual) + B(Annual)];

(iv) common credit attributable towards exempted goods removed or for provision of exempted services shall be called Annual ineligible common credit, denoted by D(Annual) and shall be calculated as, -

D(Annual) = (H/I) x C(Annual);

where H is sum total of-

(a) value of exempted services provided; and

(b) value of exempted goods removed;

during the financial year;

where I is sum total of –

(a) value of non-exempted services provided,

(b) value of exempted services provided,

(c) value of non-exempted goods removed; and

(d) value of exempted goods removed;

during the financial year;

(d) the manufacturer or the provider of output service shall pay on or before the 30th June of the succeeding financial year, an amount equal to difference between the total of the amount of Annual ineligible credit and Annual ineligible common credit and the aggregate amount of ineligible credit and ineligible common credit for the period of whole year, namely, [{A(Annual) + D(Annual)} – {(A+D) aggregated for the whole year)}], where the former of the two amounts is greater than the later;

(e) where the amount under clause (d) is not paid by the 30th June of the succeeding financial year, the manufacturer of goods or the provider of output service, shall, in addition to the amount of credit so paid under clause (d), be ***liable to pay on such amount an interest at the rate of fifteen per cent. per annum, from the 30th June of the succeeding financial year till the date of payment of such amount;***

(f) the manufacturer or the provider of output service, shall at the end of the financial year, take credit of amount equal to difference between the total of the amount of the aggregate of ineligible credit and ineligible common credit paid during the whole year and the total of the amount of annual ineligible credit and annual ineligible common credit, namely, [{(A+D) aggregated for the whole year)} – {A(Annual) + D(Annual)}], where the former of the two amounts is greater than the later;

(g) the manufacturer of the goods or the provider of output service shall intimate to the jurisdictional Superintendent of Central Excise, within a period of fifteen days from the date of payment or adjustment, as per the provisions of clauses (d), (e) and (f), the following particulars, namely :-

(i) details of credit attributed towards eligible credit, ineligible credit, eligible common credit and ineligible common credit, month-wise, for the whole financial year, determined as per the provisions of clause (b);

(ii) CENVAT credit annually attributed to eligible credit, ineligible credit, eligible common credit and ineligible common credit for the whole of financial year, determined as per the provisions of clause (c)

(iii) amount determined and paid as per the provisions of clause (d), if any, with the date of payment of the amount;

(iv) interest payable and paid, if any, determined as per the provisions of clause (e); and

(v) credit determined and taken as per the provisions of clause (f), if any, with the date of taking the credit.]

[(3AA) Where a manufacturer or a provider of output service has failed to exercise the option under sub-rule (3) and follow the procedure provided under sub-rule (3A), the Central Excise Officer competent to adjudicate a case based on amount of CENVAT credit involved, may allow such manufacturer or provider of output service to follow the procedure and pay the amount referred to in clause (ii) of sub-rule (3), calculated for each of the months, mutatis-mutandis in terms of clause (c) of sub-rule (3A), with interest calculated at the rate of fifteen per cent. per annum from the due date for payment of amount for each of the month, till the date of payment thereof."

5.3 The Revenue has cited the decisions of Hon'ble Apex Court which hold that the conditions of notification should be strictly complied with for availing the benefit of any exemption notification. In one of the cited decisions pertaining to Eagle Flask Industries Ltd (cited supra), it has been held that the condition of filing of declaration/undertaking under exemption notification is not merely procedural and hence, exemption to be denied for non-observance of the said condition. The above decisions of Hon'ble Apex Court are with reference to exemption Notifications issued under Section 5A of the Central Excise Act, 1944. The present issue relates to availment of Cenvat credit and obligation on a manufacturer or a service provider under Rule 6 of CCR, 2004, when he also manufactures dutiable as well as exempted goods and/or provides non-taxable services along with taxable services. We have also seen the requirement of Rule 6(3A)(a) which are relating to name, address and registration number of manufacturer of goods or provider of output service, date from which such option is exercised or proposed to be exercised, description of inputs or input services used exclusively in or in relation to the manufacture of exempted goods removed or for provisions of exempted service and description of such exempted goods removed and such exempted services provided. According to us, these requirements are general information available with the department in various other returns filed by a registered tax payer. We therefore, are of the view such requirement of intimating the Jurisdictional Range Superintendent cannot be equated with the condition/intimation to be given under an exemption notification issued under Section 5A of the Central Excise Act, 1944. Therefore, we treat this requirement only of a procedural nature.

5.4 We find that in the case of M/s Chandrapur Magnets Wires (P) Ltd (cited supra), it has been held that in case a manufacturer reverses Cenvat credit before removing the goods, such a reversal is to be treated as the manufacturer has not taken any Cenvat credit. Further, in the case of Hello Minerals Water (P) Ltd (cited supra), Hon'ble Allahabad High Court had accepted reversal of credit on inputs done at the Tribunal stage and held that subsequent reversal of MODVAT credit amounts to non-taking of credit on inputs and therefore, benefit of exemption notification to be granted to the party. In the case of Maize Products (cited supra), Revenue had filed appeal before Hon'ble Gujrat High Court against the Tribunal's order seeking decision on whether the Tribunal is justified in holding that the demand is highly dis-proportionate to the credit availed on common inputs which could be attributed to goods cleared without payment of duty. The Tribunal in this case had offered the respondent to reverse the entire credit attributable to the exempted products covered in the show cause notice. On challenge by the department, Hon'ble Gujarat High Court in the above case held that *no question of law arises in the matter*. Likewise, Cestat Mumbai in the case of

M/s. Marcedes Benz India Ltd (cited supra) also held that demanding reversal @ 6%/7% of the value of exempted goods/exempt Trading services is not Justified and allowed party's appeal by accepting reversal of credit on exempted trading activity on proportionate basis.

5.5 After going through the above decisions, we are of the view that demanding reversal @ 6%/7% of the value of exempted goods/non-taxable services is not proper in the instant case. The assessee, though belatedly after receiving the show cause notice, had reversed credit attributable to exempted goods/non-taxable service on proportionate basis under rule 6(3)(ii) along with interest on 07.07.2017 which has been accepted by the Lower authorities. We do not find any infirmity with their view and therefore, hold that seeking reversal on lump sum basis as per Rule 6(3)(i) in this case is not justified.

5.6 While going through reversal made by the respondent in this case, we find that Rule 6(3A)(e) [new rule 6(3A)(b)(vi) and 6(3A)(e) of CCR, 2004 w.e.f. 01.04.2016] also require payment of interest on such reversals. Prior to 01.04.2016, interest @ 24% per annum was also to be paid on reversal of proportionate credit under Rule 6(3A) which was reduced to 15% per annum w.e.f. 01.04.2016. A detailed formula has also been prescribed under Rule 6(3A) for calculating the amount liable to be reversed. Therefore, for this limited purpose, whether the respondent has correctly reversed the amount of Cenvat credit and also the interest amount, we remit the matter to the Adjudicating Authority. The respondent is directed to submit the required details to the learned Adjudicating Authority for verifying correctness of reversal of amount and interest thereon. The Adjudicating Authority shall pass remand order within 8 weeks from the date of submission of details by the respondent. The respondent shall, upon such determination, pay the balance amount of Cenvat credit and/or interest, if any.

6. The appeal of the Revenue is allowed by way of remand.

(Pronounced in the open court on 13.03.2026)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha