

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.**

PRINCIPAL BENCH - COURT NO.III

Excise Appeal No.53016 of 2023

[Arising out of Order-in-Original No.RPR/EXCUS/000/COM/CEX/19/2022-2023 dated 19.10.2022 passed by the Principal Commissioner, Central Goods and Service Tax and Central Excise, Raipur]

M/s.Ambuja Cements Limited

(Unit:Bhatapara),
ACC Limited, Cement House,
121, Maharshi Karve Road,
Mumbai-400 020,
Maharashtra.

Appellant

VERSUS

**Principal Commissioner of Central Goods
and Service Tax, Central Excise,**

GST Bhawan, Dhamtari Road,
Tikrapara, Raipur,
Chhattisgarh-492 001.

Respondent

APPEARANCE:

Shri Hemant Bajaj, Advocate for the appellant.
Shri Unmesh Kumar, Authorised Representative for the respondent.

CORAM:

**HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

FINAL ORDER NO. 58752/ 2024

**DATE OF HEARING:17.09.2024
DATE OF DECISION: 01.10.2024**

BINU TAMTA:

1. The issue decided by the impugned order ¹ relates to admissibility of credit of service tax paid on "Goods Transport

¹ Order-in-Original No.RPR/EXCUS/000/COM/CEX/19/2022-2023 dated 19.10.2022

Agency Service”² availed by the appellant for outward transportation of goods on Free on Road³ destination basis from the factory gate or depot of the appellant to the premises of the customers under Rule 2 (I) of the Cenvat Credit Rules, 2004⁴.

2. The appellant is engaged in the manufacture of ‘cement and clinker’ and has been availing cenvat credit on inputs, capital goods and input services under the CCR, 2004. The appellant sells the final product i.e. cement to the customers on FOR destination basis. Show cause notice dated 26.04.2018 was issued to the appellant for the period April, 2016 to June, 2017 alleging that the cenvat credit in respect of “GTA services for outward transportation of cement from factory to the customer’s premises or from depot to the customer’s premises on FOR destination basis has resulted in contravention of the provisions of Rule 2 I and Rule 3(1) of the Rules, 2004 read with Section 4(3)(c)(iii) of the Central Excise Act⁵. On adjudication, the entire cenvat credit was disallowed and the same has been affirmed by the Commissioner (Appeals) by the impugned order.

3. Learned counsel for the appellant and the learned Authorised Representative for the Revenue both agree that the

² GTA

³ FOR

⁴ CCR, 2004

⁵ CEA

issue raised in the present appeal is squarely covered by the decision of the Supreme Court in **Commissioner of Customs and Central Excise Vs. Roofit Industries Ltd.** ⁶ and **Commissioner of Central Excise Vs. M/s. Emco Ltd.** ⁷ and further by the decision of the Larger Bench in **Ramco Cement Vs. CCE** ⁸ and **M/s. Sweety Industries Vs. CGST and Central Excise** ⁹. The decision of the Larger Bench has clarified and decided the issue as under:-

“35. In the result, in a case where clearances of goods are against FOR contract basis, the authority needs to ascertain the ‘place of removal’ by applying the judgments of the Supreme Court in **EMCO Ltd. and Roofit Industries**, the decision of the Karnataka High Court in **Bharat Fritz Werner**, and the Circular dated 08.06.2018 of the Board to determine the admissibility of CENVAT Credit on the GTA service upto the place of removal.”

4. Here, the Revenue has not disputed that the cement is sold on FOR basis as per the allegations made in the show cause notice. Once the sale is on FOR destination basis, the ownership in the goods gets transferred only at the customer’s premises and, therefore, the present appeal needs to be allowed in favour of the appellant in terms of the decision of the Larger Bench referred above.

⁶ 2015(319) ELT 221 (SC)

⁷ 2015(8) TMI 200 (SC)

⁸ Interim Order No.40020/2023 in C.E.Appeal No.40575/2018

⁹ 2024(2) TMI 1393 (Cestat-Ahmd.-LB)

5. We, therefore, hold that the appellant is entitled to avail the cenvat credit of service tax paid on 'GTA Services' for outward transportation of cement on FOR destination sales from the factory/depot to the customer's premises in terms of Rule 2(I) of Cenvat Credit Rules, 2002 ¹⁰. The impugned order, therefore, deserves to be set aside and the appeal is accordingly allowed.

[Order pronounced on 1st October, 2024]

(Binu Tamta)
Member (Judicial)

(P.V. SUBBA RAO)
Member (Technical)

Ckp.

¹⁰ CCR, 2002