IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2026

CORAM

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

C.M.A.No.1735 of 2012

Commissioner of Central Excise, Salem
O/o Commissioner of Customs and Central Excise
No.1, Foulk's Compound, Anna Medu,
Salem 636 001. ..Appellant/Respondent

/versus/

1.M/s The India Cements Ltd.,
Dalavoi, Cement Nagar,
Perambalur 621 730.

2.Customs, Excise and Service Tax,
Appellant Tribunal, South Zonal Bench,
Shastri Bhawan Annexe, 1st Floor,
No.26, Haddows Road,
Chennai 600 006. ..Respondent/Appellant

Tax Case Appeal has been filed under Section 260-A of the Income Tax Act, 1961, to set aside the Final Order in 862/2011 dated 27.07.2011 passed by the Hon'ble CESTAT. Chennai and to uphold the Order-in-Original No.12/2008 dated 17.06.2008 passed by the Commissioner of Central Excise, Salem.

For Appellant :M/s Revathi Manivannan, Sr.St.C

For Respondent :Mr.R.Anish Kumar

JUDGMENT

(Judgment of the Court was delivered by Dr.G.Jayachandran,J.)

This appeal has been filed by the Department, being aggrieved by the Order passed by the Customs, Excise and Service Tax Appellate Tribunal (in short "CESTAT") in Final Order No.862/2011, dated 27.07.2011. The respondent-manufacturer is a cement company. The service tax paid on transportation was claimed as CENVAT credit by the assessee. The Assessing Officer declined the said request. However, the CESTAT held in favour of the assessee. Being aggrieved, the present appeal has been filed by the Department.

2. At the time of admission, the Court has framed the following Substantial Questions of Law:-

> 1.Whether the GTA service availed by the assessee in respect of outward transportation of the goods beyond the place of removal could be treated as "input service" in terms of Rule 2(I)(ii) of the Cenvat Credit Rules, 2004 before 01.04.2008 read with Section 4(3)(ii)(c) defining the " place of removal" under

the Central Excise Act, 1944?

2.Whether the Tribunal was correct in ignoring the law that Amendment by way of "Substitution" of words "clearance of final products up to the place of removal" for the works "clearance of final products from the place of removal" by way of Notification No.10/2008-CE(N.T), dated 01/03/2008 is applicable for the relevant period of dispute in appeal and consequently, the assessee is not entitled for the outward CENVAT Credit?

3.Whether the Tribunal committed an error in not appreciating the objects and reasons to find out the objective for introducing the CENVAT Credit Rules, 2004, proposed in the Finance (No.2) Bill, 2004, before interpreting the scheme of the CENVAT Rules, 2004, as held by the Apex Court in *(2009) 16 SCC 659 (Tata Power Co. v. Reliance Energy Limited?*

4.Whether the Tribunal committed an error in ignoring the fact that when the assessee had not included the cost of the "outward freight charges" in the "assessable value" as per the provisions of the Central Excise Act, 1944 the service tax paid on the outward freight charges can be available as "input service" under the CENVAT scheme"?

3. When the matter was taken up for consideration today, it was submitted by the learned counsels that the issue is no more *res integra,* in view of the decision of the Hon'ble Supreme Court of India in ***Commissioner of Central Excise, Belgaum v.***

Vasavadatta Cements Ltd. reported in ***[2018(11) GSTL 3 (SC)]*** followed by the ***Commissioner of Customs Central Excise and Sales Tax, Guntur v. Andhra Sugars Ltd.*** reported in [***2018(10) GSTL 12 (SC)].***

4. On considering these two judgments (cited supra), we find that, prior to the Amendment to the CENVAT Credit Rules, 2004, which came into effect from 01.04.2008, the definition included the term "from the place of removal". This legal position, as clarified in the above two judgments (cited supra), it has been held that "input service", as it existed prior to the amendment with effect from 01.04.2008 included the term "from the place of removal" which means GTA service used for outward transportation of goods from the place of removal up to the first point of delivery namely, the stockist and thus, was covered under "input service".

5. In view of the above authoritative pronouncement of the Hon'ble Supreme Court, this Appeal filed by the Revenue stands dismissed and the Order of the CESTAT, in Final Order No.862 of 2011 dated 27.07.2011 is upheld. No costs.

(Dr.G.JAYACHANDRAN,J.) **(R.SAKTHIVEL,J.)**
15.04.2026

ari
Index:yes/no
Neutral citation:yes/no

To

1.M/s The India Cements Ltd.,
Dalavoi, Cement Nagar,
Perambalur 621 730.

2.Customs, Excise and Service Tax,
Appellant Tribunal, South Zonal Bench,
Shastri Bhawan Annexe, 1st Floor,
No.26, Haddows Road,
Chennai 600 006.

Dr.G. JAYACHANDRAN,J.
AND
R.SAKTHIVEL, J.

ari

C.M.A.No.1735 of 2012

15.04.2026