

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST ZONAL BENCH : AHMEDABAD**

REGIONAL BENCH - COURT NO. 3

SERVICE TAX Appeal No. 13737 of 2014-DB

[Arising out of Order-in-Original/Appeal No RAJ-EXCUS-000-COM-16-14-15 dated 28.08.2014 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-RAJKOT]

Shreeji Shipping

Shreeji House, Town Hall Circle,
JAMNAGAR, GUJARAT-361001

.... Appellant

VERSUS

Commissioner of Central Excise & ST, Rajkot

Central Excise Bhavan, Race Course Ring Road,
Income Tax Office, Rajkot, Gujarat-360001

.... Respondent

AND

SERVICE TAX Appeal No. 13805 of 2014-DB

[Arising out of Order-in-Original/Appeal No RAJ-EXCUS-000-COM-16-14-15 dated 28.08.2014 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-RAJKOT]

Commissioner of Central Excise & ST, Rajkot

Central Excise Bhavan, Race Course Ring Road,
Income Tax Office, Rajkot, Gujarat-360001

.... Appellant

VERSUS

Shreeji Shipping

Shreeji House, Town Hall Circle,
JAMNAGAR, GUJARAT-361001

.... Respondent

APPEARANCE :

Shri PD Rachchh, Advocate for the Appellant- Assessee

Shri Tara Prakash, Deputy Commissioner (AR) for the Respondent-Revenue

**CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. C.L. MAHAR, MEMBER (TECHNICAL)**

DATE OF HEARING: 09.08.2023
DATE OF DECISION : 05.09.2023

FINAL ORDER NO. 11877-11878/2023

RAMESH NAIR :

The issue involved in the present case is that whether the appellant is entitled for the Cenvat credit on various steel materials such as Steel Plates, HR Plates, Angles, Channels etc. during the period 2008-09 to 2011-12 which were used in the manufacture of barges and such barges were used

for providing output services such as Port service, Cargo Handling Service, Supply of Tangible goods for use. The case of the department is that since the material on which the Cenvat credit was claimed were not used directly for providing of any taxable service, Cenvat credit on such material is not available to the appellant.

2. Shri PD Rachchh, learned Counsel appearing on behalf of the appellant submits that as per the definition under Rule 2(k), all goods used for providing output service are eligible for inputs for allowing Cenvat credit. In the present case there is no dispute that Steel Plates etc. were used in the fabrication of barges and barges were used for providing output service. Therefore, directly or indirectly inputs were used in relation to providing output service through barges therefore, credit is admissible. He submits that this issue has been considered in various judgments and the same was decided in favour of the assessee. He placed reliance on the following decision and Board Circular:-

- (a) Circular No. 120/01/2010-ST dated 19.01.2010
- (b) Mundra Ports and Special Economic Zone Limited vs. Commissioner of C.Ex. & Cus. - 2015(39) STR 726 (Guj.)
- (c) CCE, Vishakhapatnam- II vs. Sai Sahmita Storages (P) Limited. - 2011 (23) STR 341 (A.P.)
- (d) CCE&C. & ST, Raipur vs. Vimla Infrastructure India P. Limited. - 2018 (13) GSTL 57 (Chhattisgarh)
- (e) City Centre Mall Nasik Pvt. Limited vs. Commissioner of Central Excise and Service Tax, Nashik - 2017-TIOL- 4322-CESTAT-Mumbai
- (f) Adani Port & Special Economic Zone Limited vs. CST, Ahmedabad - 2016(42)STR 1010(Tri. Ahmd)
- (g) Laxmi Enterprises vs. Commissioner of C.Ex. and S.T., Vadodara - 2014-TIOL-2042-CESTAT-AHM
- (h) Navaratna S G Highway Prop Pvt. Limited vs. Commissioner of Service Tax, Ahmedabad - 2012-TIOL-1245-CESTAT-AHM
- (i) Nizam Sugar Factory vs. Collector of C.Ex, AP - 2006 (197) ELT 465 (SC)

He specifically pointed out that this Tribunal has considered the very same issue in the same set of facts vide order No. A/11590-11591/2018 dated 09.07.2018 and held that steel items, steel plates, angels, channels etc. used for repair of barges and in turn the barges were used for providing output service hence the material is input. Therefore, the issue is no longer res-integra.

3. Shri Tara Prakash, learned Deputy Commissioner (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. On careful consideration of the submissions made by both the sides and perusal of record we find that the issue that any material used for making some equipment or building and in turn that equipment and barge is used for providing output service, material which were used shall be treated as input in terms of Rule 2(k) of Cenvat Credit Rules, 2004. On this very issue, much water has flown and even in the identical facts in the case of M/s. Shreeji Shipping Services India Limited and M/s. Krishnaraj Shipping Company Limited, this Tribunal vide order No. A/11590-11591/2018 dated 09.07.2018 has held that steel material used for repair of barges are admissible for Cenvat credit. The said decision is reproduced below:-

“The issue involved in the present appeals is that whether the appellant is entitled for Cenvat credit in respect of steel items such as Steel Plates, HR Plates, Angels, Channels etc. used for repair of Barges which were used for providing output services on which the service tax is discharged.

2. Shri P.D. Rachchh, Ld. Counsel appearing on behalf of the appellants submits that the issue is squarely covered by Hon'ble Gujarat High Court decision in the case of *Mundra Ports and Special Economic Zone Limited vs. CCE & Cus. – 2015 (39) STR 726 (Guj.)*.

3. Shri Amit Kumar Mishra, Id. Dy. Commissioner (AR) appearing on behalf of the Revenue reiterated the findings of the impugned order. He submits that the steel items on which the credit is availed by the appellant were used for repair of Barge and

not for providing output service and therefore, credit is rightly denied by the lower authorities.

4. I have carefully considered the submissions made by both the sides and perused the record. I find that the steel items were used for repair of Barge and Barge is in turn used for providing output service. Therefore, the steel items such as Steel Plates, HR Plates, Angels, Channels were used for providing output service. The issue is squarely covered by the decision of Hon'ble Gujarat High Court judgment in case of Mundra Ports (supra) wherein the issue involved was whether the steel, cement used for construction of Jetty is admissible inputs against the provisions of output service i.e. Port Service. The Hon'ble High Court has allowed the credit. Therefore, following the ratio of the said judgment where identical facts were involved, I set-aside the impugned order and allow the appeals.

A similar issue has been considered by the Hon'ble Gujarat High Court in the case of Mundra Ports & Special Economic Zone Limited (supra) wherein the court has passed the following order:

6. Before deciding the question, we deem it appropriate to extract Rule 2(k) and 2(l) of the Cenvat Credit Rules, 2004.

"Rule 2(k) "input" means -

(i) all goods, except light diesel oil, high speed diesel oil and motor spirit, commonly known as petrol, used in or in relation to the manufacture of final products whether directly or indirectly and whether contained in the final product or not and includes lubricating oils, greases, cutting oils, coolants, accessories of the final products cleared along with the final product, goods used as paint, or as packing material, or as fuel, or for generation of electricity or steam used in or in relation to manufacture of final products or for any other purpose, within the factory of production;

(ii) all goods, except light diesel oil, high speed diesel oil, motor spirit, commonly known as petrol and motor vehicles, used for providing any output service.

Explanation 1. - The light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol, shall not be treated as an input for any purpose whatsoever.

Explanation 2. - Input includes goods used in the manufacture of capital goods which are further used in the factory of the manufacturer;

(l) "input service" means any service, -

(i) used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products up to the place of removal, and includes service used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage up to the place of removal, procurement of inputs, activities relating to business, such as accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking,

credit rating, share registry, and security, inward transportation of inputs or capital goods and outward transportation up to the place of removal."

7. It is not disputed that jetty was constructed and input credit was claimed on cement and steel. The aforesaid definition of Rule 2(k) was applicable and Explanation 2 did not provide that cement and steel would not be eligible for input credit. According to learned Counsel for the appellant, the appellant is not manufacturer and, therefore, the provisions of Explanation 2 of Rule 2(k) would be applicable only to the factory and manufacturer. The appellant is neither having any factory nor he is manufacturer. The appellant is a service provider of port. We need not go into this question as to whether the appellant is a factory or manufacturer or service provider in view of the fact that it is not disputed by Mr. Y.N. Ravani, learned counsel appearing for the Revenue in this Tax Appeal that the appellant provides service on port for which he is getting jetty constructed through the contractor and the appellant has claimed input credit on cement and steel. The cement and steel were not included in Explanation 2 from 2004 up to March, 2006. The Cenvat Credit Rules, 2004 were amended in exercise of the powers conferred by Section 37 of the Central Excise Act, 1944 with effect from 7-7-2009, the date on which it was notified by the Central Government from the date of the notification. According to learned Counsel for the appellant, this amended definition would apply only to the factory or manufacturer and would not apply to the service provider. According to him, either before the amendment made in the year 2009 or thereafter, the appellant was neither factory nor manufacturer and he has only constructed jetty by use of cement and steel for which he was entitled for input credit as jetty was constructed by the contractor, but the jetty is situated within the port area and the appellant is a service provider. According to the appellant, his case is squarely covered by the judgment of the Division Bench of the Andhra Pradesh High Court in *Commissioner of Central Excise, Visakhapatnam-II v. Sai Sahmita Storages (P) Limited*, [2011 \(270\) E.L.T. 33](#) (A.P.) = [2011 \(23\) S.T.R. 341](#) (A.P.) wherein in Paragraph 7, it has been clearly held that a plain reading of the definition of Rule 2(k) would demonstrate that all the goods used in relation to manufacture of final product or for any other purpose used by a provider of taxable service for providing an output service are eligible for Cenvat credit. It is not in dispute that the appellant is a taxable service provider on port under the category of port services. Therefore, the appellant was entitled for input credit and the decision of the Division Bench of the Andhra Pradesh High Court squarely applies to the facts of the case and answered the question on which the appeal has been admitted.

8. Mr. Y.N. Ravani, learned counsel for the Revenue has placed reliance on the decision of the Larger Bench of the Tribunal in *Vandana Global Limited v. Commissioner of Central Excise, Raipur*, [2010 \(253\) E.L.T. 440](#). We have carefully gone through the decision of the Larger Bench of the Tribunal. We do not find that amendment made in Cenvat Credit Rules, 2004 which come into force on 7-7-2009 was clarificatory amendment as there is nothing to suggest in the Amending Act that amendment made in Explanation 2 was clarificatory in nature. Wherever the Legislature wants to clarify the provision, it clearly mentions intention in the notification itself and seeks to clarify existing provision. Even, if the new provision is added then it will be new amendment and cannot be treated to be clarification of particular thing or goods and/or input and as such, the amendment could operate only prospectively. In our opinion, the view taken by the Tribunal is based on conjectures and surmises as the Larger Bench of the Tribunal used the expression that intention behind amendment was to clarify. The coverage under the input from where this intention has been gathered by the Tribunal has not been mentioned in the judgment. There is no material to support that there was any legislative intent to clarify any existing provision. For the same reason, as mentioned above, the decision of the Apex Court in *Sangam Spinners Limited v. Union of India and*

Others, reported in (2011) 11 SCC 408 = [2011 \(266\) E.L.T. 145](#) (S.C.) would not be applicable to the facts of the instant case.

9. Mr. Ravani has also vehemently urged that since jetty was constructed by the appellant through the contractor and construction of jetty is exempted and, therefore, input credit would not be available to the appellant as construction of jetty is exempted service. The argument though attractive cannot be accepted. The jetty is constructed by the appellant by purchasing iron, cement, grid, etc., which are used in construction of jetty. The contractor has constructed jetty. There are two methods, one is that the appellant would have given entire contract to the contractor for making jetty by giving material on his end and then make the payment, the other method was that the appellant would have provided material to the contractor and labour contract would have been given. The appellant claims that he has provided cement, steel, etc., for which he was entitled for input credit and, therefore, in our opinion, the appellant was entitled for input credit and it cannot be treated that since construction of jetty was exempted, the appellant would not be entitled for input credit. The view taken contrary by the Tribunal deserves to be set aside.

10. For the reasons given above, this Tax Appeal succeeds and is allowed. The denial of input credit to the appellant by the respondent is set aside. The appellant would be entitled for input credit. The question is answered in favour of the assessee-appellant and against the department. No order as to costs."

This similar issue has been considered by the Andhra Pradesh High Court in the case of Sai Sahmita Storages (P) Limited (*supra*) wherein the following order was passed:-

"6. The only allegation against the assessee is that they claimed CENVAT credit irregularly with reference to cement and TMT bars used in the construction of warehouses through which the storage and warehousing services are provided by the assessee. Section 65(102) of the Finance Act defines "storage and warehousing" as to include storage and warehousing services for goods including liquids and gases but does not include any service provided for storage of agricultural produce or in service provided by cold storage. As per Section 65(105)(zza), read with Section 66 of the Finance Act, there shall be levied tax on storage and warehousing services at 12% of the value of taxable service. The service tax payable is determined in accordance with Section 67(4) read with the Service Tax Rules, 1994 made in exercise of the powers under Section 94 of the Finance Act. There is no dispute that every provider of taxable service is entitled to claim CENVAT credit in relation to input service. Rule 2(k) and (l) of the Rules are relevant and they read as under.

2. Definitions.-

(k) "input" means-

(i) all goods, except light diesel oil, high speed diesel oil and motor spirit, commonly known as petrol, used in or in relation to the manufacture of final products whether directly or indirectly and whether contained in the final product or not and includes lubricating oils, greases, cutting oils, coolants, accessories of the final products cleared along with the final product, goods used as paint, or as packing material, or as fuel, or for generation of electricity or steam used in or in relation to manufacture of final products or for any other purpose, within the factory of production;

(ii) all goods, except light diesel oil, high speed diesel oil, motor spirit, commonly known as petrol and motor vehicles, used for providing any output service;

Explanation 1. - The light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol, shall not be treated as an input for any purpose whatsoever.

Explanation 2. - Input include goods used in the manufacture of capital goods which are further used in the factory of the manufacturer;

(I) "input service" means any service,-

(i) used by a provider of taxable service for providing an output service; or

(ii) used by the 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 services used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, activities relating to business, such as accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, and security, inward transportation of inputs or capital goods and outward transportation upto the place of removal.

7. A plain reading of both the above definitions would show that, unless excluded, all goods used in relation to manufacture of final product or for any other purpose used by a provider of taxable service for providing an output service are eligible for CENVAT credit. In *Maruti Suzuki Ltd. v. Commissioner of Central Excise, Delhi-III*, (2009) 9 SCC 193 = [2009 \(240\) E.L.T. 641](#) (S.C.) the Supreme Court laid down as follows.

9. Coming to the statutory definition of the word "input" in Rule 2(g) in the CENVAT Credit Rules, 2002, it may be noted that the said definition of the word "input" can be divided into three parts, namely:

- (i) specific part
- (ii) inclusive part
- (iii) place of use

10. Coming to the specific part, one finds that the word "input" is defined to mean all goods, except light diesel oil, high speed diesel oil and petrol, used in or in relation to the manufacture of final products whether directly or indirectly and whether contained in the final product or not. The crucial requirement, therefore, is that all goods "used in or in relation to the manufacture" of final products qualify as "input". This presupposes that the element of "manufacture" must be present.

8. Yet again considering the inclusive part of the definition of "input", it was held as follows.

All these considerations become relevant only when they are read with the expression "used in or in relation to the manufacture of final product" in the substantive/specific part of the definition. In each case it has to be established that inputs mentioned in the inclusive part is "used in or in relation to the manufacture of final product". It is the functional utility of the said item which would constitute the relevant consideration. Unless and until the said input is

used in or in relation to the manufacture of final product within the factory of production, the said item would not become an eligible input. The said expression "used in or in relation to the manufacture" have many shades and would cover various situations based on the purpose for which the input is used. However, the specified input would become eligible for credit only when used in or in relation to the manufacture of final product. Hydrogen gas used in the manufacture of sodium cyanide is an eligible input, since it has a significant role to play in the manufacturing process and since the final product cannot emerge without the use of gas. Similarly, Heat Transfer Oil used as a heating medium in the manufacture of LAB is an eligible input since it has a persuasive role in the manufacturing process and without its use it is impossible to manufacture the final product. Therefore, none of the categories in the inclusive part of the definition would constitute relevant consideration *per se*. They become relevant only when the above crucial requirement of being "used in or in relation to the manufacture" stands complied with. In our view, one has to therefore read the definition in its entirety.

9. There is no dispute, in these cases, that the assessee used cement and TMT bar for providing storage facility without which storage and warehousing services could not have been provided. Therefore the finding of the original authority as well as the appellate authority are clearly erroneous, which was correctly rectified by the CESTAT. In so far as the levy of penalty under Rule 15(2) of the Rules is concerned, unless and until there is a finding that there was suppression of fact, and irregular claim of CENVAT credit, the question of levying penalty under Rule 15(2) of the Rules does not arise. In that view of the matter, the order levying penalty was rightly set aside by the CESTAT.

10. These two appeals, for the above reasons, are, accordingly, dismissed. No costs."

IN Another identical case of Vimla Infrastructure India P. Limited (supra), the Chhattisgarh High Court has passed the following order:-

"5. For dwelling on the issue, definition of 'Input' and 'Input Service' provided under Cenvat Credit Rules, 2004 needs reference :

(k) "input" means -

- (i) all goods used in the factory by the manufacturer of the final product; or
- (ii) any goods including accessories, cleared along with the final product, the value of which is included in the value of the final product and goods used for providing free warranty for final products; or
- (iii) all goods used for generation of electricity or steam for captive use; or
- (iv) all goods used for providing any output service;

but excludes -

- (A) light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol;
- (B) any goods used for -
 - (a) construction of a building or a civil structure or a part thereof; or
 - (b) laying of foundation or making of structures for support of capital goods, except for the provision of any taxable service specified in sub-clauses (zn), (ztl), (zzm), (zzq), (zzzh) and (zzzza) of clause (105) of Section 65 of

the Finance Act

- (C) Capital goods except when used as parts or components in the manufacture of a final product;
- (D) motor vehicles;
- (E) any goods, such as food items, goods used in a guest house, residential colony, club or a recreation facility and clinical establishment, when such goods are used primarily for personal use or consumption of any employee; and
- (F) any goods which have no relationship whatsoever with the manufacture of a final product.

Explanation. - For the purpose of this clause, "free warranty" means a warranty provided by the manufacturer, the value of which is included in the price of the final product and is not charged separately from the customer;

(l) "input service" means service, -

- (i) used by a provider of taxable service for providing an output service; or
- (ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture and includes services used in relation to modernisation, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal;

but excludes services, -

(A) specified in sub-clauses (p), (zn), (zsl), (zsm), (zsq), (zzzh) and (zzzza) of clause (105) of Section 65 of the Finance Act (hereinafter referred as specified services), insofar as they are used for -

- (a) construction of a building or a civil structure or a part thereof; or
- (b) laying of foundation or making of structures for support of capital goods, except for the provision of one or more of the specified services; or

(B) specified in sub-clauses (d), (o), (zo) and (zzzzj) of clause (105) of Section 65 of the Finance Act, insofar as they relate to a motor vehicle except when used for the provision of taxable services for which the credit on motor vehicle is available as capital goods; or

(C) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee;

6. The above definition of 'Input' and 'Input service' would manifest that all goods used for providing any output service excluding Light Diesel Oil, High Speed Diesel or Motor Spirit or any goods used for construction of a building or a civil structure or a part

thereof or laying of foundation or making of structures for support of capital goods, except for the provision of any taxable service etc. are treated to be 'Input'.

7. Similarly, an 'Input service' would mean any service used by a provider of taxable service for providing an output service includes services used in relation to modernisation, renovation or repairs of a factory, premises of provider of output services or an office relating to such factory or premises are treated to be 'Input Service'.

8. In the case at hand, the respondent has constructed a Railway Siding which is a Low Speed Track distinct from a running line or through route such as a main line or branch line. It is used for marshaling, stabling, storing, loading and unloading vehicles and other goods. The Railway Siding of the respondent are located at Silyari Railway Station and Bhupdeopur Railway Station. In raising construction of the Railway Siding, the respondent has used MBC Sleepers, which, in turn, has been constructed by using MBC Railway Sleepers and RLS Rails.

9. The respondent was issued show cause notice by the Commissioner on the ground that it has wrongly availed and utilized Cenvat credit and inadmissible Input Service Tax in Central Excise duty paid on Inputs and Capital Goods which have been used for construction of Railway Siding as the goods which were neither the Input Service nor the inputs and Capital Goods for providing "Cargo Handling Services". The Commissioner eventually concluded that the company cannot provide any 'logistic services' viz., "Cargo Handling Services" without the facility of private Railway Side. Hence, it become essential for them to set/construct their own private Railway Side to facilitate smooth loading, unloading of materials like Coal, Iron Ore, Manganese Ore, Bauxite etc. Hence, 'inputs' and 'input services' used in setting up the Railway Private Siding which is further in use of "Cargo Handling Services" is eligible for credit under the Rules, 2004. This view of the Commissioner has been affirmed by the Tribunal.

10. Reverting back to the definition and the nature of construction activity carried on by the respondent company for erecting the facility of "Cargo Handling Services" it is to be kept in mind that the 'Inputs' have been used for providing output services which is taxable, therefore, by erecting the Railway Siding, the respondent is providing a taxable service for providing an output service, therefore, it is entitled to avail credit under Rule 2004.

11. In taking the above view, we are fortified by the law laid down by the Division Bench of Andhra Pradesh High Court in the matter of *Commissioner of Central Excise, Visakhapatnam-II v. Sai Sahmita Storage (P) Limited*, [2011 \(270\) E.L.T. 33](#) (A.P.) = [2011 \(23\) S.T.R. 341](#) (A.P.), wherein it has been held, with reference to definition of 'Input' in Rule 2(k) that all the goods used in relation to manufacture of final product or for any other purpose used by a provider of taxable service for providing output service are eligible for Cenvat credit.

12. Yet again, the Gujarat High Court in the matter of *Mudra Ports & Special Economic Zone Limited v. CCE & Cus.* - [2015 \(39\) S.T.R. 726](#) (Guj.) has taken the same view by allowing Cenvat credit to the company who has constructed Jetty within the Port Area for providing Port Services.

13. For the above stated reasons, we answer the substantial question of law against the Revenue and in favour of the Assessee Company.

14. Consequently, the appeal fails and is hereby dismissed."

5. From the above consistent view of various High Courts and following the same by the Tribunal, the issue is no longer res-integra accordingly any material used for construction of building or fabrication of any equipment which is in turn used for providing output taxable service, on the material so used, the credit is correctly admissible. Therefore, considering the settled legal position on the issue in hand, the impugned order is not sustainable, hence the same is set-aside.

6. As regards the Revenue's appeal, since it is only for enhancement of penalty which is nothing but consequential to confirmation of demand and when demand itself is not sustained there is no question of penalty. Hence the Revenue's appeal has no substance accordingly the same is liable to be dismissed.

7. As a result, the assessee's appeal is allowed and Revenue's appeal is dismissed.

(Pronounced in the open court on 05.09.2023)

(Ramesh Nair)
Member (Judicial)

(C L Mahar)
Member (Technical)

KL