GOODS AND SERVICES TAX APPELLATE TRIBUNAL,
THANE BENCH
Suraj House, 1st Floor, Ghodbunder Road, Dongripada, Thane West, Thane (Maharashtra) 400615

<u>Division Bench Court No. Court I</u>

APL/3/THN/2026

ASISH KUMAR PATI ....**Appellant**

Versus

DIRECTOR, THE ADDRESS VISTA 2 903 903 LAL BAHADUR SHASTRI MARG MUMBAI GHATKOPAR WEST MHMSU 400086 OPP R CITY MALL, KAIRAV CHEMOFARBE INDUSTRIES LIMITED ....**Respondent**

Counsel for Appellant
SHRI GHANSHYAM KUMAR, ASSISTANT COMMISSIONER, AUTHORISED REPRESENTATIVE

Counsel for Respondent
SHRI HEMANT REGMI, CHARTERED ACCOUNTANT

<u>Hon'ble Shri Ramesh Nair, Member(Judicial)</u>
<u>Hon'ble Shri Prallhad S. Paranjape, Member (Technical)</u>

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : ZN670230826000002H **Date of order :** 06/08/2026

1.	GSTIN/Temporary ID/UIN -	
2.	Appeal Case Reference no. - APL/3/THN/2026	Date - 05/02/2026

3.	Name of the appellant - ASISH KUMAR PATI , asish.pati@gov.in , 9437227179
4.	Name of the respondant - 1. KAIRAV CHEMOFARBE INDUSTRIES LIMITED , notifications@kcilglobal.com , 8169475126
5.	Order appealed against -
	(5.1) Order Type - Refund Order
	(5.2) Ref Number - CSM/948/RGD-APP/2024-25 DATED 16.12.2024 — Date - 16/12/2024
6.	Personal Hearing - 06/08/2026 22/07/2026 09/06/2026 27/04/2026
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled
8.	Order in brief - The revenue's appeal is dismissed being not maintainable before this GSTAT. Detail order followed.
	Summary of Order
9.	If demand order then whether demand quantified: No

10.	For Other orders and Demand orders which are not quantified:	
Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Erroneous refund	Appeal was allowed in favor of taxpayer and OIO was set aside.	The revenue's appeal is dismissed being not maintainable before this GSTAT.

Place :THANE

Signature

Date : 06.08.2026

THANE Shri Ramesh Nair

Designation : Member

Jurisdiction :Thane

ORDER

GOODS AND SERVICES TAX APPELLATE TRIBUNAL,
THANE BENCH
Suraj House, 1st Floor, Ghodbunder Road, Dongripada, Thane West, Thane (Maharashtra) 400615

APL/3/THN/2026

Commissioner, CGST & C. Ex., Raigad Commissionerate

… Appellant

versus

KAIRAV CHEMOFARBE INDUSTRIES LIMITED

… Respondent

Order per: Shri Ramesh Nair, Judicial Member

1. This appeal is listed for regular hearing and final disposal of the appeal filed by the revenue. On going thru the records of the appeal, we find

that the Order-in-Original as well as the first appellate order were passed under the erstwhile Central Excise Act, 1944 read with the Cenvat Credit Rules, 2004.

QUESTION OF LAW:

2. The question of law involved in this case for our consideration is whether on the issue of refund of unutilized cenvat credit availed under the erstwhile Cenvat Credit Rules, 2004 in terms of Section 142(3) of CGST Act, 2017, the appeal lies before this GSTAT or otherwise?

3. The issue in brief is the respondent claimed refund of accumulated/unutilised cenvat credit in cash under section 11B the Central Excise Act, 1944 in terms of Section 142(3) of CGST Act, 2017. The bench raised a query that this Tribunal is not the right forum for appeal, whereas the appeal should have filed before CESTAT.

4. Shri Ghanshyam Kumar, learned Assistant Commissioner, Authorised Representative appearing for the revenue appellant, answering the query, submits that issue is of refund under Section 142(3) of CGST Act, hence appeal is maintainable in this GST Appellate Tribunal.

5. On the other hand, Shri Hemant Regmi, learned Chartered Accountant, appearing on behalf of the respondent, at the outset submits that firstly the preamble of the impugned order itself directs to file appeal before the Customs, Excise & Service Tax Appellate Tribunal, and secondly both the orders passed by the Adjudicating Authority and first Appellate Authority under the erstwhile Central Excise Act, 1944. Therefore, this GST Appellate Tribunal has no jurisdiction to entertain this appeal.

6.1 We have carefully considered the submissions made by both the sides and perused the records. We find that undisputedly, both the orders of the authorities below were passed under section 11B of the Central Excise Act, 1944 being the issue involved is cash refund of accumulated and unutilized cenvat credit availed under the erstwhile Cenvat Credit Rules, 2004 in terms of Section 142(3) of the CGST Act, 2017. As regard the plea of the learned AR that issue is of Section 142(3) of CGST Act, 2017, for ease of reference the said section is reproduced below:

Section 142 (3)

Every claim for refund filed by any person before, on or after the appointed day, for refund of any amount of CENVAT credit, duty, tax, *interest or any other amount paid under the existing law, shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.*

6.2 As per the above provision, the refund even though provided in terms of Section 142(3) of the CGST Act, 2017 but it explicitly provides that the same needs to be disposed of in accordance with the provisions of existing law, in particular section 11B of Central Excise Act, 1944. Therefore, both the authorities below have righty disposed off the matter under the erstwhile Central Excise Act, 1944. The similar issue regarding jurisdiction of Tribunal in the case of refund of unutilised cenvat credit in terms of Section 142(3) of CGST, 2017 came up before the CESTAT wherein the larger bench of CESTAT at Chennai in the case of *M/s. Bosch Electrical Drive India Pvt. Ltd. v. Commissioner of Central Tax, Chennai* (reported in 2024 (390) E.L.T. 652 (Tri.-LB) ruled that appeals against refund/credit rejection orders passed under Section 142(3) of the CGST Act, 2017 lie maintainable before the CESTAT.

6.3 As per our above discussion and finding with the settled legal position, we are of the firm view that in the captioned matter this GSTAT has no jurisdiction to entertain this appeal. Accordingly, the revenue's appeal is dismissed as not maintainable before this Tribunal, with liberty to approach the right forum i.e. CESTAT and the same shall be dealt with in accordance with law.

(Order pronounced in the open court)

(Shri Ramesh Nair)

Member (Judicial)

(Shri Prallhad S. Paranjape)

Member (Technical)

Dated: 06.08.2026