HIGHWAY INFRASTRUCTURE LIMITED
CIN : U45203MP2006PLC018398
GSTIN : 23AABCH6631A1Z9
REG. OFFICE ADDRESS: 57-FA, SCHEME NO. 94, PIPLIYAHANA JUNCTION, RING ROAD, INDORE, (M.P.) – 452016, INDIA
Tel: +91-731-2590013, 4047177
E-Mail:hiplindore@gmail.com, Visit us at : www.highwayinfrastructure.in

November 11, 2025

To, **The Secretary,** **Corporate Relationship Department,** **BSE Limited** **P. J. Towers, Dalal Street** **Mumbai- MH 400001.**	**To,** **The Secretary,** **Listing Department,** **National Stock Exchange of India Ltd.** **Exchange Plaza, BKC, Bandra (E)** **Mumbai - MH 400051.**

Scrip Symbol: HILINFRA | Scrip Code: 544477 | ISIN: INE00RL01028

Subject: Announcement under Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015.

Dear Sir/Madam,

Pursuant to Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, we wish to inform you that the Company has received a favourable order from the Office of the Customs, Excise & Service Tax Appellate Tribunal dated November 11, 2025, in connection with the proceedings under the Service Tax Act.

The said order has been passed in favour of the Company, whereby the earlier penalty amounting to Rs.66,58,383/- (Rupees Sixty-Six Lakhs Fifty-Eight Thousand Three Hundred and Eighty-Three only) along with the interest thereon has been set aside, and a refund (CENVAT Credit) of Rs. 64,33,488/- (Rupees Sixty-Four Lakhs Thirty-Three Thousand Four Hundred and Eighty-Eight only) has been allowed to the Company.

The disclosure in terms of Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 read with SEBI Master Circular No. SEBI/HO/CFD-PoD2/CIR/P/0155/2024 dated November 11, 2024, is enclosed herewith as Annexure – A to this letter.

You are requested to take the above information on record.

Thanking You,

For Highway Infrastructure Limited

Palak Rathore

Digitally signed by Palak Rathore
Date: 2025.11.11 18:30:43 +05'30'

Palak Rathore
Company Secretary & Compliance Officer
Membership No. – A-73755

Encl: As above.

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Annexure A

The details as required under the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, as amended ("Listing Regulations"), read with the SEBI Master Circular No. SEBI/HO/CFD-PoD2/CIR/P/0155 dated November 11, 2024:

S.no	Particulars	Description
1.	Name of the Authority	Office of the Customs, Excise & Service Tax Appellate Tribunal
2.	Date of Order	November 11, 2025
3.	Brief details of the litigation	Proceedings under the Service Tax Act pertaining to levy of service tax and imposition of penalty of Rs. 66,58,383/- (Rupees Sixty-Six Lakhs Fifty-Eight Thousand Three Hundred and Eighty-Three only) and interest thereon; and refund (CENVAT Credit) of Rs. 64,33,488/- (Rupees Sixty-Four Lakhs Thirty-Three Thousand Four Hundred and Eighty-Eight only) allowed.
4.	Amount involved (if any)	Rs. 1,30,91,871/- (Rupees One Crores Thirty Lakhs Ninety-One Thousand Eight Hundred and Seventy-One only)
5.	Outcome of the Order	1. Order passed in favour of the Company; penalty of **Rs. 66,58,383/-** (Rupees Sixty-Six Lakhs Fifty-Eight Thousand Three Hundred and Eighty-Three only) and interest set aside; 2. Refund (CENVAT Credit) of **Rs. 64,33,488/-** (Rupees Sixty-Four Lakhs Thirty-Three Thousand Four Hundred and Eighty-Eight only) allowed.
6.	Impact on the Company	Favourable; no financial liability on the Company. Positive impact to the extent of Rs. 1,30,91,871/- (Rupees One Crores Thirty Lakhs Ninety-One Thousand Eight Hundred and Seventy- One only)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH – COURT NO. III

SERVICE TAX APPEAL NO. 50509 OF 2024

[Arising out of Order-in-Appeal No. IND-EXCUS-000-APP-293-2023-24 dated 14.02.2024 passed by the Commissioner(Appeals) Customs, CGST & Central Excise, Indore(M.P.)

M/s Highway Infrastructure Ltd. **...Appellant**
[erstwhile Highway Infrastructure Pvt. Ltd.],
57-FA, Scheme No. 94, Pipliyahana Chouhara
Ring Road, Indore, M.P.

Versus

Commissioner, Central Excise & CGST **...Respondent**
Manik Bagh Palace, Post Box No. -10,
Indore(MP)-452 014

APPEARANCE:
Dr. Arvind Singh Chawla, Advocate for the appellant
Ms. Jaya Kumari, Authorised Representative for the respondent

AND

SERVICE TAX APPEAL NO. 51189 OF 2020

[Arising out of Order-in-Appeal No. IND-EXCUS-000-APP-216-19-20 dated 31.01.2020 passed by the Commissioner(Appeals) Customs, CGST & Central Excise, Indore(M.P.)

M/s Highway Infrastructure Ltd. **...Appellant**
57-FA, Scheme No. 94, Pipliyahana Chouhara
Ring Road, Indore, M.P. -452 002

Versus

Commissioner, Central Excise & CGST **...Respondent**
Manik Bagh Palace, Post Box No.-10,
Indore(MP)-452 001

APPEARANCE:
Dr. Arvind Singh Chawla, Advocate for the appellant
Ms. Jaya Kumari, 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.51697-51698 /2025

Date of Hearing: 13.10.2025
Date of Decision: 11.11.2025

BINU TAMTA:

1. Highway infrastructure Private Limited[1] has filed two separate appeals, challenging their liability to reverse CENVAT Credit and rejection of their refund claim of the reversed amount. Since the two issues are inter-linked and consequential, the same are being considered together.

2. The appellant is engaged in providing service of Construction of Residential Complex to their clients and have been availing CENVAT Credit of tax paid on input services and capital goods for providing the said services. On the basis of an information that the appellant was carrying on the activity of construction services of residential complex at **New York City Project**[2], for the last five years, an enquiry was initiated calling for the details of completion certificate issued by the Competent Authority. The appellant submitted the completion certificate dated 14.09.2016 issued by Nagar Palika Nigam Indore along with Tower wise details of NYCP and that certain units or tower are still under construction or no work has been started at the time of issue of completion. The appellant also reversed the CENVAT Credit for unsold units not booked as on 14.09.2016.

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[1] **The Appellant**
[2] **NYCP**

3. The Department was of the opinion that after issuance of completion certificate on 14.09.2016, the appellant was covered under the provisions of Rule 6 of the CENVAT Credit Rules, 2004[3], as amended vide Notification No.23/2016–CE(NT) dated 1.04.2016 and, therefore, the appellant was liable to reverse the credit of input services pertaining to unsold unit or liable to pay an amount equal to 7% of value of the exempted services. Show cause notice dated 20.10.2021 was issued for the period April 2012 to September 2016 to the appellant for wrong availment of credit of input services as inputs and input services used in an activity, which is not a service under the Finance Act attracts reversal provisions under Rule 6. The amount of Rs.65,59,741/- already reversed by the appellant appeared to be appropriated against the liability, worked out to be at Rs.66,58,383/- recoverable in terms of the provisions of Rule 6(1) & (3)(ii) of CCR read with Notification 23/2016. The Adjudicating Authority taking the view that at the time of receiving the completion certificate, the amendment was already made in Rule 6, whereby the inputs and input service used in an activity, which is not a 'service' under the Act was also to attract the reversal provisions under Rule 6 was applicable, held that the activity carried out by the appellant was included in the definition of the 'exempted service' and the reversal made by the appellant as per the provisions of Rule 6 is legal and proper. Thus, vide Order-in-Original dated 23.12.2022, the recovery of the amount against the credit availed in respect of the exempted services was upheld along with interest under Section 75 and penalty

[3] **CCR,2004**

under Section 78 of the Act. The appeal filed by the appellant has been rejected by the impugned order[4]. Hence the present appeal (ST- 50509/2024) has been filed before the Tribunal.

4. Further to complete the facts, as on the date of obtaining completion certificate for 558 units, the appellant had certain units, which were still under construction and they had not commenced work for some units as well for which they were not liable to reverse the CENVAT Credit and, therefore, filed refund application on 18.03.2019. Show cause notice dated 10.07.2019 was issued denying the refund claim. On adjudication, the refund application was rejected vide order dated 9.09.2019 and the appeal against the same was also rejected vide order dated 31.01.2020 (impugned herein).

5. Heard Dr. Arvind Singh Chawla, Advocate for the appellant and Ms. Jaya Kumari, Authorised Representative for the Department.

6. Dr. Arvind Singh Chawla, the learned Counsel for the appellant submitted that the authorities below wrongly applied the amendment of Notification No.13/2016–CE(NT) dated 1.03.2016 retrospectively, as Explanation-3 so inserted says that exempted service under Rule 2(e)of CCR, 2004 would include any activity, which is not a service and, therefore, the same has to be applied prospectively. He further submitted that the sale of completed units

[4] Order-in-Appeal No.IND-EXCUS-000-APP-293-2023-24 dated 14.02.2024

does not fall under the definition of 'service' and hence does not qualify as an exempt service under CCR until the Explanation-3 was inserted from 1.04.2016, which enlarged the scope of 'exempted service' to include an activity which is not a service. The submission of the learned Counsel is that reversal of credit under Rule 6 is applicable only to those credit, which are availed in relevant current year while applying the reversal criteria and the rule does not contemplate reversal of credit which has already been availed for the past period when the output services become non-taxable. The learned Counsel strongly relied on the decision of the Tribunal, which has been affirmed by the High Court in the case of **M/s. Alembic Limited & Shreno Ltd. Vs. CCE & St, Vadodara-I**[5] and submitted that the Adjudicating Authority violated the judicial discipline in not considering the precedent laid down by the superior Court.

7. The learned Authorised Representative for the Revenue reiterated the findings of the authorities below. He submitted that from the definition of 'service' it is clear that mere sale of immovable properties is not at all a service and, therefore, when any activity is not a 'service', it cannot be an 'output service'. Section 66E of the Act prescribes that the construction of complex service will not come under the ambit of 'declared service', where the entire consideration is received after issuance of completion certificate. He also submitted that the appellant has received completion certificate only on 14.09.2016, which is the date subsequent to amendment of Rule

[5] **2018 (10) TMI 1557 CESTAT-Ahmd.**

6 and, therefore, at the time of receiving completion certificate, the amended rule was enforced and hence would be applicable to them. The credit so availed prior to the completion certificate itself was not eligible as there was no output service and the exempted services has been defined in Rule 2(e) of CCR meaning service on which no service tax leviable and thus the credit of input services used in supply of non-taxable services, so availed was also required to be reversed as per Rule 6. Rule 6 was amended whereby the provider of output service providing taxable as well as exempted services, pay an amount equal to 6% of the value of the exempted goods and 7% of the value of the exempted services subject to a maximum of the total credit available in the account of assessee. The impugned order is, therefore, justified and the appeal needs to be rejected.

8. The basic question which arises for consideration is whether the appellant is required to reverse CENVAT Credit on account of completion certificate with respect to the units completed but not booked/unsold as on 14.09.2016, being the date of receipt of completion certificate and if not whether they are entitled to seek refund of the amount wrongly reversed.

9. The bone of contention rests on the amendment introduced by Notification No.13/2016-CE(NT) dated 01.03.2016, whereby Explanation-3 was inserted to Rule 6 of CCR, which provided for the first time that the 'exempted service' defined under Rule 2(e) of CCR shall include an activity, which is not a 'service' as defined under Section 65B(44) of the Act. The said notification has been

considered by the Ahmedabad Bench of the Tribunal in **M/s. Alembic Ltd.,** in similar circumstances, where the appellant had availed CENVAT Credit in the course of constructing the Real Estate Projects developed by them, and the issue was whether the appellant is liable to reverse portion of the CENVAT credit availed by them after the receipt of completion certificate for the project and thereafter, they will not be discharging the service tax liability as no advance was received prior to receipt of completion certificate. The Bench was of the view that insertion of Explanation-3 has created a deeming fiction for the purposes of Rule 6, which exempted services as defined in Clause (e) of Rule 2 by including an activity, which is not a 'service' as defined in Section 65B(44) of the Act provided that such activity has used inputs or input services prior to 1.04.2016. Earlier, there was no such stipulation for treating it as an exempt service so as to attract the mischief created under Rule 6. In other words, Rule 6 *per se* does not apply until 1.04.2016 and, therefore, appellant cannot be expected to pay an amount equal to 8% or 10% of sale price of immovable property, after obtaining such completion certificate, where no service tax is paid as if it is sale of immovable property. On the issue of reversal of proportionate credit out of the valid input service credits availed by them, during the period prior to obtaining completion certificate, i.e. availing during the time when whole of output service of Construction of Residential Complex was taxable, the Bench referring to the principle that CENVAT credit is a vested right, once it is legally and validly availed the same cannot be denied and or recovered unless specific provisions exists for the same and that the credit entitlement is on the date of receipt of

inputs when the output activity was wholly dutiable held that before obtaining the completion certificate, the service of the appellant was very much taxable during which period the appellant received input service. Consequently, there is no legal requirement to reverse any credit availed on input services in the past. The Bench also concluded that at the time of taking credit, there is no existence of any exempted service and part of the service was exempted only after obtaining completion certificate and, therefore, there is no application of Rule 6. Further, the Bench specifically noticed that in case service becomes exempted at a later stage, unlike the provision for manufactured goods provided under Rule 11 (1), (2) and (3), there is no such provision in respect of the service. Referring to the provisions of Rule 11(4), it was observed as follows:

> "From the above sub rule (4), it can be seen that even if an output service provider avail the credit and output service becomes exempted in such case the credit only in respect of inputs lying in stock or is contained in taxable service is required to be paid whereas there is no provision for payment of cenvat credit equivalent to the input services used in respect of exempted service. Therefore, the cenvat credit availed in respect of input service is not required to be paid back under any circumstances.
>
> 19. We accordingly hold that the Appellants were not legally required to reverse any Credit which was availed by them during the period 2010 till obtaining Completion Certificate, i.e. during the period when output service was wholly taxable in their hands, merely because later on, some portion of the property was converted into immovable property on account of receipt of Completion Certificate and on which no Service Tax would be paid in future".

10. In principle having held that since the credits availed, when output service was wholly taxable cannot be called in question, the

appellants are not required to reverse any credit availed on valid input services availed prior to obtaining the completion certificate, the Bench concluded that the said amount is reversed by them under protest cannot be retained by the Revenue authorities and have to be returned to the appellants in accordance with law. The appellants were held to be eligible to seek refund of the said amount. The **Gujarat High Court**[6] in principle agreed with the said decision of the Tribunal both regarding non-reversal of the credit availed by the assessee on valid input services for the period till obtaining the completion certificate and also that the amount so reversed have to be refunded to the appellants and accordingly the appeal filed by the Revenue was dismissed.

11. We would like to refer the decision of the **Madras High Court in Tractor and Farm Equipment Ltd. V/s C.C.E & CESTAT**[7] holding that since credit was taken legally as final products during relevant time were eligible to duty, credit was not liable to be reversed as there is no statutory provision to do so. The appeal filed by the Department was dismissed by the **Apex Court**[8] **.**

12. For interpretation and application of Explanation-3 to Rule 6, we would like to rely on the landmark decision in **Eicher Motors Limited versus Union of India** [9]**,** where the Apex Court with reference to the deletion of Rule 57F(4A) of Central Excise Rules

[6] **2019 (7) TMI 908**
[7] **2014 (12) TMI 905, Madars High Court**
[8] **2015 (324)ELTA 86(SC).**

[9] **1999 ((106) ELT3 (SC)**,

observed that the accumulated credit already standing in the assessee's account did not automatically lapse as the right of credit once crystallized upon receipt of inputs, could not be extinguished merely because the rule under which such credit was taken was later on withdrawn. In other words, the Court held that CENVAT/Modvat Credit once validly earned, becomes an indefeasible right of the assessee and cannot be taken away by subsequent changes in law, unless there is an express statutory provision mandating its lapse.

13. The Supreme Court, in the case of ***Collector of Central Excise, Pune* v. *Dai Ichi Karkaria Ltd.,*** reported in **1999 (112) E.L.T. 353 (S.C.),** has held that the credit taken is indefeasible. We may quote the relevant paragraph 17 of the judgment thus :

> "17. It is clear from these Rules, as we read them, that a manufacturer obtains credit for the excise duty paid on raw material to be used by him in the production of an excisable product immediately it makes the requisite declaration and obtains an acknowledgement thereof. It is entitled to use the credit at any time thereafter when making payment of excise duty on the excisable product. There is no provision in the Rules which provides for a reversal of the credit by the excise authorities except where it has been illegally or irregularly taken, in which event it stands cancelled or, if utilised, has to be paid for. We are here really concerned with credit that has been validly taken, and its benefit is available to the manufacturer without any limitation in time or otherwise unless the manufacturer itself chooses not to use the raw material in its excisable product. The credit is, therefore, indefeasible. It should also be noted that there is no co-relation of the raw material and the final product; that is to say, it is not as if credit can be taken only on a final product that is manufactured out of the particular raw material to which the credit is related. The credit may be taken against the excise duty on a final product manufactured on the very day that it becomes available."

14. The High Court, in the case of ***Filco Trade Centre Pvt. Ltd.*** **v.** ***Union of India,*** reported in **2018 (17) G.S.T.L. 3 (Guj.)**, while striking down clause (iv) of sub-section (3) of Section 140 of the CGST Act, recognized that the benefit of credit of eligible duties on the purchases made by the first stage dealer as per the then existing Cenvat credit rules was a vested right and it cannot be taken away by virtue of clause (iv) of sub-section (3) of Section 140 with retrospective effect in relation to the goods which were purchased prior to one year from the appointed day.

15. In view of the law laid down in the aforementioned decisions we may now consider the facts of the instant case. The appellant is engaged in development of colony and construction under its project NYCP involving:-

Shopping Mall, Hotel
Community building for residents
Duplex bungalows category, A and B Residential Towers A1, B1, B2, B3, C1, C2, C3,
Residential plots
EWS Units.

16. On the date of completion certificate on 14.09.2016, 558 units were completed and the remaining units/towers were still under construction or had not commenced work. The breakup of the project given by the appellant is as under:-

				Upto 14 Sep-2016			
Particulars	**Total Land Area (Sq. Mtr.)**	**Total Saleable Area(Sq.ft.)**	**Total Construc-table Units**	**Complete Units**	**Units Under Construction**	**Units Not Yet Started**	**Unsold Units**
Area Under Shopping Mall/Entertainment Building Plot	5,083						
Area Under Hotel Building Plot	1,224						
Duplex A	2,282	20,891	13		13		
Duplex A/B+Tower A01/B01/B03/C01/C02	**30,443**	**5,47,586**	**558**	**558**			191(1,83,649sq ft)
Tower B02/c03	**6,650**	**1,87,152**	**204**	**0**	**0**	**204**	
Residential Plots	3,071	28,730	29				
E.W.S. Units	1,492						
Area Under Community Building	130						
Total	**50,375**	**7,84,359**	**804**	**558**	**13**	**204**	

The appellant has clarified that as the whole project was not complete on the date of obtaining completion certificate for 558 units, the appellant continued to avail CENVAT as per CCR on procurement for construction of unfinished incomplete units and construction commenced after 14.09.2016. The appellant continued to pay taxes on those units on which any amount of consideration in the form of advance was received prior to obtaining completion certificate. From the clarification given, we find that the appellant has not availed any input services credit

after 14.09.2016 for unsold units, i.e. the date on which completion certificate is obtained. At the same time, common credit has been availed only towards the taxable portion and proportionate credit towards completed unsold units has been reversed. In this regard, the appellant has placed on record the Chartered Accountant's Certificate duly certifying that after the completion date, the company has not taken input credit relating to the construction of the said completed 558 units and out of the common credit of the whole NYCP, the company has reversed proportionate credit towards completed unsold units/ area and availed credit only relating to the taxable portion of the project after the said completion date. There is no reason to doubt the certificate issued by the Chartered Accountant, which has been held to have substantive value. Thus the appellant has availed only eligible credit after issuance of completion certificate. As the Notification No.13/2016, w.e.f. 01.04.2016 had inserted Explanation- 3 that 'exempted service' under Rule 2(e) to include an activity which is not a 'service' as defined under Section 65B (44) of the Act has been held to be prospective and, therefore, no reversal was required to be made for the period till March 31, 2016. Following the decisions referred above, we are of the view that no reversal of eligible past credits is permissible under Rule 6 by reason of output services becoming non-taxable.

17. **Appeal No.ST/51189 of 2020** arises out of the rejection of the refund claim by the authorities below, both on merit as well as on being time barred having been filed after one year from the date

of payment in terms of Section 11B of the Act. We find that the appellant had reversed the input service credit on 01.07.2017 pertaining to the unsold units after getting the completion certificate in view of the observations made by the audit. The return was filed on 29.09.2017 and the refund application was filed on 18.03.2019. The submission of the appellant is that as they are eligible for input services, they were not required to reverse such credit pertaining to the unsold flats and also the plea of time bar is not available. The Revenue while referring to the issue on merits that as no service tax was payable on the unsold flats after the completion certificate was obtained, the appellant was required to reverse the amount of credit. The Revenue opposed the refund application being not maintainable on the ground that the appellant had filed the return on 29.09.2017 and TRAN-1 indicates that they have forwarded the credit in GST era after deducting the input service credit. The process of assessment being complete, the assessee cannot claim refund without challenging the assessment and relied on the following decisions:-

(1) ITC Ltd.[10]

(2) BT (India) Pvt. Ltd.[11]

(3) Jagdambha Phosphates[12]

(4) Priya Blue Industries[13]

(5) Flock India Pvt. Ltd.[14]

(6) Miles India Ltd.[15]

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[10] 2019 (368) ELT 216 (SC)
[11] (2023) 13 Centax 89 (Delhi)
[12] (2024) 25 Centax 421 (Tri.-Delhi) (28.10.2024)
[13] 2004 (172) ELT 145 (SC)
[14] 2000 (120) ELT 285 (SC)

(7) Mafatlal Industries Ltd.[16]

18. The issue in the present case had arisen by virtue of reversal of the credit in respect of the unsold units after the issuance of completion certificate by invoking the amendment introduced by Notification No.13/2016 w.e.f. April 1, 2016, which has been held to be prospective by us in view of the decisions of the **Madras High Court** in **Tractor and Farm Equipment** and in **M/s. Alembic,** which has been affirmed by the Gujarat High Court. Credit entitlement is to be seen specifically on the date of availment of credit when the activities are taxable and there can be no denial/reversal of credit unless there is specific provision in law to do the same. Deciding the reversal to be bad, the issue stands decided in favour of the appellant that they were not required to reverse the credit amount taken by them in respect of the unsold units. The appeal before us does not arise merely by rejection of the refund application but also by upholding the reversal of the CENVAT Credit. Once we have held that reversal is not legally permissible, the applicant is consequently entitled to the refund of the said amount which has been wrongly reversed by the wrong interpretation placed by the Department. To quote the findings of the Gujarat High Court in **M/s. Alembic** as under:-

> **"18.** The Tribunal therefore, rightly held that once the respondent are not required to reverse any credit availed by them on valid input services availed during the period 2010 till obtaining of completion certificate, the said amounts reversed by them under protest cannot be retained by the revenue authorities and have to be refunded to the respondent."

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[15] **1987 (30) ELT 641 (SC)**
[16] **1997 (89) ELT 247 (SC)**

19. The conclusion arrived at above by the Gujarat High Court with reference to similar context is binding on us and following the same, we hold that the appellant is entitled to the refund of the said amount. As the refund application has been considered in view of the findings on reversal of CENVAT Credit, the reliance placed by the Revenue on the decisions of the Apex Court in the case **of ITC Ltd.**[17] **Priya Blue Industries**[18] and **Flock India Private Limited**[19] are not applicable. In that view, the refund application needs to be allowed.

20. Coming to the issue of refund application being time barred, we find that the refund application filed on 18.03.2019 was under the provisions of Section 142(3) of the CGST Act, which is quoted below:-

> "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 (1 of 1944) :
> **Provided** that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:
> **Provided** further that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act."

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[17] **2019 (368) ELT 216 (SC)**
[18] **2004 (172) ELT 145 (SC)**
[19] **2000 (120) ELT 285 (SC)**

21. Perusal of the aforesaid provisions shows that refund is subject to provisions of subsection (2) of section 11B of the Act, which means that the refund can be denied only on account of unjust enrichment. The provisions of time bar under Section 11B(1) are, therefore, not applicable. Section 142(3) has an overriding effect on Section 11B of the Act and, therefore, the time limitation provided under Section 11B cannot be imposed. The appellant was entitled to avail the credit and had reversed the same merely to avoid the situation leading to any proceedings being initiated by the Revenue. Succinctly, the said reversal has been held to be erroneous, the refund application needs to be allowed.

22. The two impugned orders are, therefore, unsustainable and are hereby set aside. Consequently, both the appeals are, allowed.

[Order pronounced on 11th November, 2025]

(BINU TAMTA)
MEMBER (JUDICIAL)

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)

ckp