

**Customs, Excise & Service Tax Appellate Tribunal  
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO. 02

**Excise Appeal No. 10179 of 2025**

(Arising out of Order in Original VAD-EXCUS-002-COM-012-24-25 dated 12/11/2024 passed by the Commissioner of CGST & Central Excise, Vadodara-II)

**KOHLER INDIA CORPORATION PRIVATE LIMITED**

**.....Appellant**

Plot No. 828, GIDC Mega Estate,  
Jhagadia, Bharuch Gujarat-393135

*VERSUS*

**CGST & Central Excise-Vadodara -II**

**.....Respondent**

GST Bhavan, Arkee Garba Ground,  
Nr. Telephone Exchange, Subhanpura,  
Vadodara, GUJARAT-390023

**APPEARANCE:**

Shri. Bharat Raichandani & Shri. Ritik Jain, Advocates for the Appellant  
Shri. M P Solanki, Assistant Commissioner (AR) for the Respondent

**CORAM: HON'BLE MR. SOMESH ARORA, MEMBER ( JUDICIAL )  
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER ( TECHNICAL )**

**Final Order No. 10328 /2025**

DATE OF HEARING:06.05.2025

DATE OF DECISION:06.05.2025

**SOMESH ARORA**

In the instant case, the Learned Commissioner while agreeing to the various case law under the Finance Act, 1994 in relation to Rule 2(l) of Cenvat Credit Rules, 2004 which were in favor of the party, still disallowed the benefit to them only on the ground that the decision of Safari Retreats Ltd reported in 2024 90 GSTL 3 (S.C) had disallowed such benefit in historic judgment on indirect taxes despite the same being on the CGST.

2. The learned Commissioner in enthusiasm to apply Safari Retreats Ltd to the cases under Finance Act, 1994 and to the provisions of Section 2(l)

applied the same without considering whether the provision of both the Acts were *peri materia* or not. This has led to unnecessary litigation as the basic principle while applying ratio of any court decision under two different Acts or legislations has been ignored by the learned Commissioner. While we would have been disinclined to remit the matter in normal course, our limited purpose of doing so is that Learned Commissioner should appreciate that a ratio under different legislation cannot be applied, unless the provisions of both Acts are *peri materia*. Learned Commissioner will do well to call out and compare the provisions of rules 2(l) of the Cenvat Credit Rules, 2004 which define inputs service in an inclusive definition during the impugned period, as well as Section 17 (i.e. Clause (d) of sub-Section 5 of Section 17) of the CGST Act, 2017 to find out whether the same are *peri materia* or not?

3. Since the matter is in the third round of litigation, we therefore make it incumbent upon the Commissioner to decide the matter within three weeks of receiving the order. Learned Advocate shall be free to make any further submissions if so desired.

4. Appeal allowed by way of remand.

(Dictated & Pronounced in the open court)

**(SOMESH ARORA)**  
**MEMBER ( JUDICIAL )**

**(SATENDRA VIKRAM SINGH)**  
**MEMBER ( TECHNICAL )**