FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 19/04/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/70387-70389/2017-CU[DB]** dated **06/04/2017**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the **Finance Act, 1994 relating to Service Tax Act, 1994.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	ST/533/2010	**Innodata India Private Limited** 07th & 08th Floor,c-25,stellar It Park Sector-62 NOIDA UTTAR PRADESH 201309
2	ST/534/2010	**Innodata India Private Limited** 07th & 08th Floor,c-25,stellar It Park Sector-62 NOIDA UTTAR PRADESH 201309
3	ST/535/2010	**Innodata India Private Limited** 07th & 08th Floor,c-25,stellar It Park Sector-62 NOIDA UTTAR PRADESH 201309

	Name and Address of Respondent
4	C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307
5	C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307
6	C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

Other Appellants and Respondents as per Annexure

Copy To

7Advocate(s) / Consultant(s):

S. Ramanand Aiyar & Co. Chartered Accountants,
708, SURYA KIRAN,
19 KASTURBA GANDHI MARG,
NEW DELHI,
110001

8 Bar Association, CESTAT, Allahabad

9 Director Publications, Customs, Excise. I.P. Estate, Delhi

10 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

11 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

12 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

13 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

14 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

15 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

16 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

17 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

18 C.D.R. 19 Office Copy 20 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL Nos.ST/533-535/2010-CU[DB]

(Arising out of Order-in-Appeal No. 350-352-CE/APPL/NOIDA/09 dated 24/12/2009 passed by Commissioner of Central Excise & Customs (Appeals), Noida)

M/s Innodata India Pvt. Ltd.	**Appellant**
Vs.	
Commissioner of Customs, C.E. & S.T., Noida	**Respondent**

Appearance:

Ms Lalitha Krishnamurthy, C.A.	
Shri Gavrav Arya, C.A.	for Appellant
Shri D.K. Deb, Assistant Commissioner (AR),	for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 06/04/2017
Date of Decision : 06/04/2017

FINAL ORDER NO.-70387-70389/2017

Per: Anil Choudhary

The present appeal is filed by the appellants-assessee against common Order-in-Appeal No. 350-352-CE/APPL/NOIDA/09 dated 24/12/2009 passed by Commissioner of Central Excise & Customs (Appeals), Noida.

2. The issue in this appeal is regarding disallowance in part of the claim under Notification No.12/2005-ST being rebate claimed for

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Service Tax paid on input services utilized in the activity of export of services.

3. The brief facts of the case are that the appellant is a STPI unit engaged in rending services under the category of 'Online Information and Database Access or Retrieval services' as defined under Section 65 (105) (zg) of the Finance Act. The appellant exports 100% of their services and also receives several input services on which they pay service tax and/or utilized in the course of their activity of providing export of service. The appellant filed periodical claims for refund as follows:-

Sl. No.	Appeal Nos.	Order-in-Original	Period involved	Amount of Refund rejected (Rs.)
1.	ST/533/2010	57/09 dt. 23.06.09	April 07 to June 07	4,71,051/-
2.	ST/534/2010	58/09 dt. 23.06.09	July 07 to September 07	2,94,301/-
3.	ST/535/2010	62/09 dt. 29.06.09	October 07 to Dec 07	3,15,982/-
			Total	**10,81,334/-**

4. Being aggrieved, with the impugned order passed by the learned Commissioner (Appeals), who was pleased to reject the refund facility on the ground of time-bare. The learned Counsel draws our attention to the findings of the impugned order, wherein the learned Commissioner (Appeals) have observed as follows:-

"On perusing the above provisions (section 11B of Central Excise Act), I find that in the instant case, in the absence of specific

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provision both under Notification No.12/2005-ST dated 19.04.2005 and Export of Services Rules, 2005, the relevant date has to be computed in accordance with clause (f) of the explanation to Section 11B and not under clause (a) of the explanation to said Section, as contended by the appellant. In the instant case, clause (a) cited supra is not applicable as the services have been exported and not the goods. I further, observe that Government has issued exclusive rules and notifications prescribing the conditions, limitations and procedure with regard to grant of refund of service tax paid in respect of services used in export of taxable services. Thus, the date of payment of duty or tax shall be the relevant date for determining the eligibility of the refund."

5. The learned Counsel urges that this observation of learned Commissioner (Appeals) is in conflict with the condition of export, as defined in Rule 3 of Export of Service Rules, 2005, and also clause 2 (a) of the Notification No. 12/2005 provides that the taxable services have been exported in terms of Rule 3 of the export of Service Rules. We notice that two conditions have been prescribed for satisfaction of Export of Service. First, being remittance for service of India and its receipts by receiver of services abroad and secondly, remittance must have been received in convertible foreign exchange in India. Accordingly, we find that the learned Commissioner erred in computing the period of limitation from the date of payment of the

input tax. Accordingly, this ground is decided in favour of the appellant.

6. The second ground of disallowance is that during the period when services were received some of the premises of the appellant's company were not registered with the Service Tax Department. The learned Counsel have taken us through the sample invoices which show services are in respect of security guard, rent, etc. and have also demonstrated that these additional premises were taken on rent due to increase in business and these premises were subsequently applied for and accordingly included in the centralised certificate dated 29th of March 2011. Accordingly, she prays that the Cenvat credit should be held allowable. She also stated that these additional offices have supported the activity of the company and they have raised all the bills for the services exported from their registered office, which is not disputed and have received foreign convertible exchange for the same. The learned Counsel have further placed reliance on the ruling of Hon'ble Karnataka High Court in the case of mPortal India Wireless Solutions Pvt Ltd versus CST reported at 2012 (27) STR 134, wherein it have been held that registration is not a precondition for refund of input service, utilized for export.

7. The learned AR has relied on the impugned order on this issue.

8. Considering the facts and circumstances and taking notice of the fact that all such unlisted premises had subsequently been

registered and recognized for the appellant, and also relying on the ruling of Hon'ble Karnataka High Court in the case of mPortal India Private Ltd (supra), I allow this ground also, in favour of the appellant.

9. The third issue relates to denial of input credit for the purpose of refund/rebate on the 'Rent-a-cab Operator Service' received amounting to Rs.21,488/-. The learned Counsel explains that, demonstrating from the copy of bill that the said services are received for transport of the employees for holding conference outside the office at club side or resort. She further emphasizes that as the holding of the business conference and/or training program is part of the business activity which improves the productivity and overall profitability. The same may be held as eligible input service for the purpose of rebate.

10. The learned A.R. relied on the findings of the Commissioner (Appeals).

11. Having considered the rival contentions, we hold that transport expenses (Rent-a-Cab operator service) for holding a conference or training session at any place outside the office premises is allowable and accordingly rebate of the same is also allowable.

12. To sum up, all the three grounds are decided in favour of the appellant and accordingly, the impugned order is set-aside so far it

have disallowed the rebate of input services utilised by the appellant in the course of their rendering of services exported. Accordingly, we hold that the appellant will be entitled to refund of the balance amount not granted by the court below. we further direct the Adjn adjudicating authority to grant the refund within a period of 45 days from the date of receipt of a copy of this order along with interest as per rules.

13. Thus, the appeals are allowed.

(Dictated in Court)

-Sd/-
(ANIL CHOUDHARY)
Member (JUDICIAL)

-Sd/-
(ANIL G. SHAKKARWAR)
Member(TECHNICAL)

akp

प्रमाणित प्रति/Cerified True Copy
03/05/2017
सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/(C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001