CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT No. 2

Service Tax Appeal No. 957 of 2011

(Arising out of Order-in-Original No.105/2010-ST (Commr.) dated 30.12.2010 passed by the Commissioner of Central Excise and Service Tax, Bangalore.)

M/s. Robert Bosch Engineering and Business Solutions Limited
No.123, Industrial Layout,
Hosur road, Koramangala,
Bangalore – 560 095.

Appellant(s)

VERSUS

The commissioner of Central Excise and Service Tax
Large Tax Payers Unit,
JSS Towers, 100 feet Ring Road,
Banashankari, 3rd Stage,
Bangalore – 560 085.

Respondent(s)

WITH

Service Tax Appeal No. 2630 of 2011

(Arising out of Order-in-Original No.50/2011-ST (Commr.) dated 28.05.2011 passed by the Commissioner of Central Excise and Service Tax, Bangalore.)

M/s. Robert Bosch Engineering and Business Solutions Limited
No.123, Industrial Layout,
Hosur road, Koramangala,
Bangalore – 560 095.

Appellant(s)

VERSUS

The commissioner of Central Excise and Service Tax
Large Tax Payers Unit,
JSS Towers, 100 feet Ring Road,
Banashankari, 3rd Stage,
Bangalore – 560 085.

Respondent(s)

AND

Service Tax Appeal No. 2631 of 2011

(Arising out of Order-in-Original No.56/2011-ST (Commr.) dated 28.05.2011 passed by the Commissioner of Central Excise and Service Tax, Bangalore.)

M/s. Robert Bosch Engineering and Business Solutions Limited
No.123, Industrial Layout,
Hosur road, Koramangala,
Bangalore – 560 095.

Appellant(s)

VERSUS

The commissioner of Central Excise and Service Tax
Large Tax Payers Unit,
JSS Towers, 100 feet Ring Road,
Banashankari, 3rd Stage,
Bangalore – 560 085.

Respondent(s)

APPEARANCE:

Shri Deepak Kumar Jain. B, Chartered Accountant for the Appellant.

Shri Rajesh Shastry, Superintendent, Authorised Representative for the Respondent.

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20956 - 20958 / 2025

DATE OF HEARING: 04.06.2025

DATE OF DECISION: 04.06.2025

PER : P.A. AUGUSTIAN

The issue in the present appeals is regarding ineligible credit of service tax and demand for various period. Appellant is registered as a 100% Export Oriented Unit (EOU) under

Software Technology Park Scheme and filed refund claims for different periods as per Notification No.5/2006 dated 14.03.2006 on the input services availed by them for the service exported for the relevant quarter. Alleging that appellant is not eligible to avail credit of input services as no nexus has been established with the output service, adjudicating authority rejected the refund claim. Aggrieved by said order, an appeal was filed before the learned Commissioner (A) and the Commissioner (A) partially allowed the refund claims. Aggrieved by the said order, appellants were before this Tribunal and after considering the appeals filed by the appellant for different periods, this Tribunal considered the entire issue and as per detailed Final Order No.23114 – 23130/2017 dated 8.12.2017 held that these services have been held to be eligible input services and allowed the cenvat credit on these services during the period of dispute by setting aside the impugned orders. Accordingly, refunds were sanctioned. However, in the meantime, alleging that on perusal of the ST-3 returns filed by the appellant during the very same period, as covered in the final orders, proceedings were initiated and as per the impugned order adjudicating authority disallowed the cenvat credit availed by the appellant during the relevant period and confirmed demand of service tax along with interest and penalty. Aggrieved by said orders, appeals were filed.

2. When the appeal came up for hearing, the learned Chartered Accountant (CA) for the appellant submitted the entire orders related to previous proceedings as per the following chart.

Sl. No.	Refund Orders relevant for the period Apr-08 to Sept-08	Period
1	O-i-O No. 373/2010 dated 30-Jul-2010	Apr-08 to Jun-08
2	O-i-O No. 374/2010 dated 30-Jul-2010	Jul-08 to Sept-08
3	O-i-A No. JMJ/45/2012, dated 23-Apr-2012	Apr-08 to Sept-08
4	Final Order No.23114 - 23130/2017 dated 08-Dec-2017	Apr-08 to Jun-2012

Sl. No.	Refund Orders relevant for the period Oct-08 to Mar-09	Period
5	O-i-O No. 278R/2010 dated. 30-Jun-2010	Oct-08 to Dec-08
6	O-i-O No. 279R/2010 dated. 30-Jun-2010	Jan-09 to Mar-09
7	O-i-A No. 07/2011 dated 18-03-2011	Oct-08 to Mar-09
8	Final Order No.23114 - 23130/2017 dated 08-Dec-2017	Apr-08 to Jun-2012

Sl. No.	Refund Orders relevant for the period Apr-09 to Sept-09	Period
9	O-i-O No. 220R/2011 dated 26-Aug-2011	Apr-09 to Jun-09
10	O-i-O No. 210R/2011 dated 23-Aug-2011	Jul-09 to Sept-09
11	OiA No. JMJ/71 to 76/2012 dated 04-Jun-2012	Apr-09 to Sept-09
12	Final Order No.23114 - 23130/2017 dated 08-Dec-2017	Apr-08 to Jun-2012

2.1 Learned CA also drew our attention to the relevant orders and submits that once the issue regarding eligibility of cenvat credit is already settled by this Tribunal in a detailed order, impugned orders rejecting the claim based on ST-3 returns filed by the appellant during the relevant period is illegal and unsustainable. The learned CA also submitted detailed chart correlating the amount covered by the previous orders and the impugned orders and submitted that as evident from the impugned order, the demand is confirmed against the net amount of refund allowed by this Tribunal. The chart pertaining to period April 2008 to September 2008 is appended below:

April 2008 to September 2008

Particulars	Total	Apr - Jun'08	July - Sep'08
Cenvat Credit taken as per Revised ST3	**44,506,392**	**17,586,006**	**26,920,386**
Less: Credit reversed			
Credit pertaining to 01-Apr-08 to 16-May-08	5,010,286	5,010,286	
Credit reversed by the Appellants in books	3,748,066	577,300	3,170,766
Total cenvat credit reversed	8,758,352	5,587,586	3,170,766

Net Eligible Cenvat Credit for refund	**35,748,040**	**11,998,420**	**23,749,620**
Less: Utilization	**-13,358,998**	- 3,874,380	- 9,484,618
Less: Refund reduced due to Formula	**-**	-	-
Net Amount eligible for refund	**22,389,042**	**8,124,040**	**14,265,002**
- Apr'08 to Jun'08	8,124,040	8,124,040	
- Jul'08 to Sep'08	14,265,002		14,265,002

Particulars	Refund Allowed	Reference
Amount allowed in Order-in-Original	Nil	O-i-O No. 373/2010 & O-i-O No. 374/2010, dated 30-Jul-2010
Amount allowed in Order-in-Appeal	18,595,808	O-i-A No. JMJ/45/2012, dated 23-Apr-2012
Amount allowed in Final Order	3,793,234	Final Order No.23114 - 23130/2017 dated 08-Dec-2017
Total Refund Allowed	**22,389,042**	

Refund Details for the said period

Name of the Service	Net Eligible Cenvat	Cenvat Utilized	Refund Claim Amount	Refunds allowed O-i-O 374/2010 & 373/2010
Business Support Service	82,315		82,315	
Chartered Accountant Consultancy Service	211,572		211,572	
Clearing & Forwarding Agent Service	1,122,286		1,122,286	
Courier Charges	35,316		35,316	
Information Technology Software Service	4,669,725	2,012,167	2,657,558	
Management Consultant Service	511,761		511,761	
Management, Maintenance or Repair Service	1,648,519	703,682	944,837	
Management & Technical Consultancy Service	-		-	
Manpower recruitment and supply agency	906,439	388,529	517,910	
Outdoor Caterer's Services	**1,154,401**		**1,154,401**	
Rent-A-Cab Transport Services	**668,432**	**274,687**	**393,745**	
Renting of Immovable Property Services	15,936,839	6,918,173	9,018,666	
Computer network services	7,987,464	3,000,159	4,987,305	

Security/Detective Agencies	489,511		489,511	
Telecommunication Services	137,386	61,600	75,786	
Commercial Training & Coaching	155,968		155,968	
Insurance Auxiliary	30,105		30,105	
Total	**35,748,039**	**13,358,997**	**22,389,042**	**-**

The chart pertaining to period October 2008 to March 2009 is appended below:

October 2008 to March 2009

Particulars	**Total**	**Oct-08 to Dec-08**	**Jan-09 to Mar-09**
Net Cenvat Credit	**72,028,643**		
Less: Difference in statement	- 1,476,749		
Net Cenvat Credit considered for refund	**70,551,894**	33,113,270	37,438,623
Less: Utilization	- 22,670,866	- 14,021,564	- 8,649,302
Less: Refund reduced due to Formula & others	-659,424	- 42,604	- 616,820
Less: Other reversals	-850,705	- 659,227	- 191,477
Net Amount eligible for refund	**46,370,899**	**18,389,875**	**27,981,024**
- Oct'08 to Dec'08	18,389,875	18,389,875	
- Jan'09 to Mar'09	27,981,024		27,981,024

Particulars	**Refund Allowed**	**Reference**
Amount allowed in Order-in-Original on refund matter	15,402,499	O-i-O No. 278R/2010 and 279R/2010 dated. 30-Jun-2010
Amount allowed in Order-in-Appeal on refund matter	16,314,258	O-i-A No. 07/2011 dated 18-03-2011
Amount allowed in Final Order on refund matter	14,250,968	Final Order No.23114 - 23130/2017 dated 08-Dec-2017
	45,967,725	

Refund Details for the said period

Name of the Service	**Net Cenvat Credit**	**Refunds allowed**		
		O-i-O *includes Utilization	**O-i-A**	**Final Order**
		278R/2010 and 279R/2010	**07/2011**	**23114 - 23130/ 2017**
Business Auxiliary Services	69,344	-		69,344
Business Support Service	442,856	-		442,856

Chartered Accountant Consultancy Service	676,557	-		676,557
Clearing & Forwarding Agent Service	1,689,004	-		1,689,004
Information Technology Software Service	12,235,638	3,684,450	5,571,545	2,979,643
Management, Maintenance or Repair Service	4,842,449	3,453,170		1,389,279
Management & Technical Consultancy Service	502,563	-		502,563
Manpower recruitment and supply agency	1,412,149	547,864		864,285
Outdoor Caterer's Services	1,437,462	-		1,437,462
Rent-A-Cab Transport Services	861,183	-		861,183
Renting of Immovable Property Services	29,622,572	14,342,914	14,039,351	1,240,307
Computer network services/Online Information and data	14,240,642	14,240,642		-
Security/Detective Agencies	665,752	-		665,752
Commercial Training & Coaching	688,210	-		688,210
Insurance Auxiliary	17,189	-		17,189
Event Management	118,851	-		118,851
Telecommunication	1,029,472	428,931		600,541
Total	**70,551,893**	**36,697,971**	**19,610,896**	**14,243,026**

The chart pertaining to period April 2009 to September 2009 is appended below:

April 2009 to September 2009

Particulars	Total	Apr-09 to Jun-09	Jul-09 to Sept-09
Net Eligible Cenvat Credit	**53,338,135**	**20,614,209**	**32,723,926**
Less: Utilization	-20,101,622	-8,538,869	-11,562,753
Less: Refund reduced due to Formula & CA Certificate	-1,787,748	-372,725	-1,415,023
Net Amount eligible for refund	**31,448,765**	**11,702,615**	**19,746,150**
- Apr'09 to Jun'09	11,702,615	11,702,615	
- Jul'09 to Sep'09	19,746,150		19,746,150

Particulars	Refund Allowed	Reference
Amount allowed in Order-in-Original on refund matter	22,089,362	O-i-O No. 220R/2011 dated 26-Aug-2011 and 210R/2011 dated 23-Aug-2011
Amount allowed in Order-in-Appeal on refund matter	4,069,980	OiA No. JMJ/71 to 76/2012 dated 04-Jun-2012
Amount allowed in Final Order on refund matter	5,289,423	Final Order No.23114 - 23130/2017 dated 08-Dec-2017

Refund Details for the said period

Name of the Service	Net Cenvat	Refund Allowed		
		OIO *includes Utilization	OIA	Final Order
		220R/2011 and 210R/2011	JMJ/71 to 76/2012	23114 - 23130/2017
Business Auxiliary Services	52,361	-		52,361
Business Support Services	270,333	-		270,333
Chartered Accountants	404,687	-		404,687
Clearing & Forwarding Agency	1,265,449	-		1,265,449
Commercial Training & Coaching	732,953	-		732,953
Event Management	9,476	-		9,476
Information Technology Software Service	4,152,122	4,152,122	-	0
Insurance Auxiliary	80,670	-		80,670
Maintenance or Repair Service	6,312,947	4,903,445	1,409,502	0
Management Consultants	585,280	-		585,280
Manpower Recruitment Agency	1,452,012	182,754	1,269,258	-0
Online Information and Data	12,197,415	12,197,415	-	-0
Outdoor Catering	1,283,880	-		1,283,880
Rent-A-Cab Transport Services	496,898	-	496,898	-
Renting of Immovable Property Service	22,318,468	21,916,363	402,105	0
Security / Detective Agencies	604,334	-		604,334
Telecommunication Service	1,118,850	626,633	492,217	-0
Total	**53,338,135**	**43,978,732**	**4,069,980**	**5,289,423**

2.2 The learned CA further submitted that the order is beyond the period of limitation as the original returns were filed on or before 25.10.2008, which was later revised on 19.1.2009 consequent in export turnover; however, there was no change in cenvat credit in ST-3 returns. Hence, the show-cause notice dated 18.1.2010 is issued beyond one year and is time barred.

3. The learned Authorised Representative (AR) for the Revenue fairly admits that correlation submitted by the learned

CA is correct and the demand confirmed by the different orders covered by the refund finalised by this Tribunal in the earlier proceedings.

4. Heard both sides and it is an admitted fact that the appellant had exported services and claimed refund under Rule 5 of CENVAT Credit Rules, 2004. However, alleging that the inputs are not related to the output service, refund claims were rejected and after perusal of the evidence on record, this Tribunal as per Final Order No.23114 – 23130/2017 dated 8.12.2017 held that appellant is eligible for refund as claimed. Thus, invoking provisions under Section 14 for denying the cenvat credit as claimed by the appellant as per ST-3 returns filed earlier, in the absence of any admissible evidence to prove that there was fraud or negligence or suppression of fact on the part of the appellant, is unsustainable. Accordingly, the impugned orders are set aside with consequential relief, if any, in accordance with law.

(Operative portion of the order was pronounced
in Open Court on conclusion of hearing.)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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