

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 2528 of 2012

(Arising out of Order-in-Appeal No. 130/2012 dated 30.05.2012
passed by the Commissioner of Central Excise (Appeals-II),
Bangalore)

M/s. Mphasis Limited,

Bagmane World Technology Center,
WTC3, Block B, 1st Floor,
Marathalli Outer Ring Road,
Doddanekundi, Bangalore – 560 048.

Appellant(s)

VERSUS

**Commissioner of Central
Excise,**

No.16/1, 5th Floor, SP Complex,
Lalbagh Road, Bangalore – 560 027.

Respondent(s)

APPEARANCE:

Mr. K. Parameswaran and Mr. Krishnamurthy, Advocates for the
Appellant

Mr. M.A. Jithendra, Asst. Commissioner (AR) for the Respondent

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R. BHAGYA DEVI, MEMBER
(TECHNICAL)**

Final Order No. 22046 /2025

DATE OF HEARING: 22.12.2025

DATE OF DECISION: 22.12.2025

PER : DR. D.M. MISRA

Heard both sides and perused the records.

2. This is an appeal filed against Order-in-Appeal
No.130/2012 dated 30.05.2012 passed by the Commissioner of
Central Excise (Appeals), Bangalore.

3. Briefly stated the facts of the case are that the appellant had filed rebate claim for Rs.19,10,44,481/- being the service tax paid on input services used for export of Information Technology Software Services during the period June 2008 to September 2008. A show-cause notice was issued proposing to reject the rebate claim pointing out certain discrepancies in the said claim. Consequently, on adjudication, the rebate claim was rejected. Aggrieved, they filed appeal before the learned Commissioner(Appeals), who in turn, modified the Order-in-Original and remanded the matter to the original authority with the direction to grant eligible amounts as rebate. Hence, the present appeal.

4. At the outset, the learned AR for the Revenue raised a preliminary objection submitting that since the impugned order was passed by the learned Commissioner of Central Excise (Appeals) and the issue relates to rebate claim of service tax paid on various input services used for export of Information Technology Software Services, this Tribunal has no jurisdiction to decide the appeal. He submits that as per second proviso to Section 86 of the Finance Act, 1994 as amended w.e.f. 14.05.2015 by Finance Act, 2015, such appeals pending as on the said date be disposed in accordance with Section 35EE of the Central Excise Act, 1944.

5. We find merit in the contention of the learned AR for the Revenue. The relevant amended provision w.e.f. 14.05.2015 reads as follows:-

Section 86. (1) Save as otherwise provided herein, an assessee aggrieved by an order passed by a Principal Commissioner of Central Excise or Commissioner of Central Excise under section 73 or section 83A or an order passed by a Commissioner of Central Excise

(Appeals) under section 85, may appeal to the Appellate Tribunal against such order 83 within three months of the date of receipt of the order:

Provided that where an order, relating to a service which is exported, has been passed under section 85 and the matter relates to grant of rebate of service tax on input services, or rebate of duty paid on inputs, used in providing such service, such order shall be dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944 (1 of 1944):

Provided further that all appeals filed before the Appellate Tribunal in respect of matters covered under the first proviso, after the coming into force of the Finance Act, 2012 (23 of 2012), and pending before it up to the date on which the Finance Bill, 2015 receives the assent of the President, shall be transferred and dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944 (1 of 1944).

6. On a plain reading of the second proviso to the amended Section 86, it is clear that appeal pending as on 14.05.2015 be disposed off in accordance with Section 35EE of the Central Excise Act, 1944. In the present case, the appeal was filed on 12.09.2012. Therefore, this Tribunal has no jurisdiction to continue with the said appeal. Consequently, the appeal papers be transferred to the Revisionary Authority of Government of India in view of the above provisions. Registry is directed accordingly. Appeal is disposed off.

(Order dictated and pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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