

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

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 20768 of 2015

(Arising out of Order-in-Appeal No. 874 & 875/2014 dated 24.12.2024 passed by the Commissioner of Service Tax (Appeals), Bangalore.)

**M/s. Honeywell Technology
Solutions Lab Pvt. Ltd.**

No.151/1, Doraisanipalya,
Bannerghatta Road,
Bangalore - 560 076.

Appellant(s)

VERSUS

The Commissioner of Service Tax

1st to 5th Floor, TTMC Building,
Above BMTTC Bus Stand, Domlur,
Bangalore - 560 071.

Respondent(s)

WITH

Service Tax Appeal No. 20769 of 2015

(Arising out of Order-in-Appeal No. 874 & 875/2014 dated 24.12.2024 passed by the Commissioner of Service Tax (Appeals), Bangalore.)

**M/s. Honeywell Technology
Solutions Lab Pvt. Ltd.**

No.151/1, Doraisanipalya,
Bannerghatta Road,
Bangalore - 560 076.

Appellant(s)

VERSUS

The Commissioner of Service Tax

1st to 5th Floor, TTMC Building,
Above BMTTC Bus Stand, Domlur,
Bangalore - 560 071.

Respondent(s)

APPEARANCE:

Ms. Meghna Lal and Mr. Sudhanva Kumar, Advocates for the Appellant

Mr. Vinod Kumar Garhwal, Superintendent (AR) for the Respondent

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

FINAL ORDER NO. 22129 - 22130 / 2025

DATE OF HEARING: 11.12.2025
DATE OF DECISION: 11.12.2025

PER: R. BHAGYA DEVI

Briefly the facts are that the appellant M/s. Honeywell Technology Solutions Lab Pvt. Ltd. filed refund claims as per the provisions of Notification No. 9/2009-ST dated 03.03.2009 which were rejected by the Commissioner (Appeals) vide impugned Order-in-Appeal No. 874 & 875/2014 dated 24.12.2014 passed by the Commissioner of Service Tax (Appeals), Bangalore. Aggrieved by this rejection of refund claims, the appellant is in appeal before us.

2. The Learned Counsel submits that the refund claims pertain to the period from October 2009 to December 2009 and January 2010 to March 2010. It is submitted that they are into providing services under the category of Information Technology Services, Business Auxiliary Services etc. and the appellant had filed refund claims which was rejected by the Commissioner (Appeals) on the ground that they have been filed beyond the period of 6 months prescribed under proviso 2(f) of the Notification No.9/2009-ST dated 03.03.2009. It is stated that the show-cause notice had not been issued on the ground of limitation, hence the order is beyond the scope of the show-cause notice and cannot be sustained as is held in the case of **Commissioner of Central Excise, Bangalore vs. Brindavan Beverages P. Ltd.: 2007 (213) ELT 487 (S.C.)**. It is also

submitted that the order is contrary to the overriding provisions of SEZ Act, 2005 and same cannot be sustained in view of the decision by the Tribunal in the case of **M/s. Vedanta Aluminium Ltd. Vs. Commissioner of Central Excise and Service Tax, Bhubaneswar: 2024 (3) TMI 1325 CESTAT Kolkata.**

3. The Learned Authorised Representative (AR) for the Revenue reiterated findings of the Commissioner (Appeals) and justified the reasons for rejection of the refund claims.

4. Heard both sides. We find that the show-cause notice dated 27.12.2010 and show-cause notice dated 30.03.2011 both have been issued on the following grounds:

4.1 Whereas it appears that all the taxable services, claimant has sought refund of service tax paid, appears to be wholly consumed within the Special Economic Zone and that the said services have not been used in relation to the authorised operations. The claimant has not substantiated that the specified services on which service tax has been paid have actually been used in relation to the authorised operations in the SEZ and accordingly the claimant is not entitled for refund of service tax paid in respect of services consumed wholly within the special economic zone under the provisions of Notification No. 9/2009 S.T. dated 3/3/2009 as amended by Notification No. 15/2009 S.T. dated 20/5/2009.

4.2. Further, preliminary scrutiny of the refund application has also revealed that the claimant has not fulfilled the following conditions of the Notification under which the refund claim has been made.

(i) The claimant has not furnished any documentary proof such as Bank Statement etc., as required under para 2(g) (II) of the Notification No. 15/2009 S.T. dated 20/5/2009, In support of their claim that payment of Service Tax has been made by them to the providers of specified services.

(ii) The claimant has not provided evidence that service tax has been paid by the person liable to pay service tax under Section 68 on the specified services as required under para 2 (a) of Notin. No.9/09 as amended.

(iii) The claimant has not furnished the account of receipt and utilisation of the taxable services in their authorised operations. Further, the claimant has also not furnished the details as to how each of the specified services have been utilised in respect of the taxable services for which the claimant has obtained the Service Tax Registration.

(iv) Copy of the ST-3 returns for the relevant period not enclosed.

(v) Copies of Invoices under which the services are said to have been exported have not been enclosed to the claim

5. The original authority at Para 11 of the impugned order No.327/2012 dated 27.03.2012 and Order-in-Original No. 326/2012 in addition to denying the benefit on merit observes as follows on the aspect of limitation:

'From the verification of the claim along with it's enclosure it is observed that:

As per the proviso 2 (e) of the Notification No. 9/2009 - S.T. dated 03.03.2009 -"the claim for refund shall be filed, within six month or such extended period as the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall permit, from the date of actual payment of service tax by such developer or unit to service provider". Whereas, in the instant case, the claimant have filed the subject refund claim on 31.12.2010 claiming a refund of Rs.8,83,692/- said to have been paid on the specified services utilized in relation to the authorised operations in the Special Economic Zone Unit, under the provisions of Notification No. 9/09 dated 03.03.2009, as amended by Notification No. 15/09 dated 20.05.2009 for the period January to March 2010. Further, the bank statement furnished by

applicant, in support of their claim, also revealed that the applicant has made the payment to their Service Provider during the period January 2010 to March 2010. Thus, it is abundantly clear that the applicant has not fulfilled the obligation of time limit prescribed under the proviso 2 (e) of the Notification No. 9/2009-S.T. dated 03.03.2009. As such, I hold that the refund claimed by the claimant under the provisions of Notification No. 9/09 dated 03.03.2009. as amended by Notification No. 15/09 dated 20.05.2009 for the period January to March 2010 is hit by limitation of time. Hence, the entire refund claim is liable for rejection on this ground only'.

5.1 The Commissioner (Appeals) rejects the refund claims on the ground of limitation and also observed that '*As the lower authority has rejected the refund claims on the ground of limitation I refrain from giving any findings on the other grounds*'.

5.2 From the above, we find that as rightly claimed by the appellant though the show-cause notice does not allege that the claims were filed beyond the period of limitation both the authorities reject the claim on the ground of limitation which is beyond the scope of the show-cause notice, hence the impugned order cannot be sustained. The Supreme Court in the case of **Commissioner of Central Excise Versus Gas Authority of India Ltd. 2008 (232) E.L.T. 7 (S.C.) dated 13-11-2007** observed as follows:

'7. As repeatedly held by this Court, show cause notice is the foundation of the Demand under Central Excise Act and if the show cause notice in the present case itself proceeds on the basis that the product in question is a by-product and not a final product, then, in that event, we need not answer the larger question of law framed hereinabove. On this short point, we are in agreement with the view expressed by the Tribunal that nowhere in the show cause notice it has been alleged by the Department that Lean Gas is a final product. Ultimately, an assessee is required to

reply to the show cause notice and if the allegation proceeds on the basis that Lean Gas is a by-product, then there is no question of the assessee disputing that statement made in the show cause notice.

5.3 Similarly in the case of Hon'ble Supreme Court in the case of **Commissioner of Central Excise, Bangalore Vs. Brindavan Beverages P. Ltd.** (supra) held as follows:

"10. The show cause notice is the foundation on which the department has to build up its case. If the allegations in the show cause notice are not specific and are on the contrary vague, lack details and/or unintelligible that is sufficient to hold that the noticee was not given proper opportunity to meet the allegations indicated in the show cause notice. In the instant case, what the appellant has tried to highlight is the alleged connection between the various concerns. That is not sufficient to proceed against the respondents unless it is shown that they were parties to the arrangements, if any. As no sufficient material much less any material has been placed on record to substantiate the stand of the appellant, the conclusions of the Commissioner as affirmed by the CEGAT cannot be faulted".

6. In view of the above, the impugned orders are set aside and consequently, the appeals are allowed.

(Operative portion of the order was dictated and pronounced
in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

rv