

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 60412 of 2017

[Arising out of Order-in-Appeal No. 38/ST/Appeal-II/MK/CGM/2017 dated 28.02.2017 passed by the Commissioner (Appeals-II Delhi), Gurgaon]

M/s Iffco Tokio Insurance Services Ltd

.....Appellant

4th Floor, Iffco Tower,
Plot No. 3 Sector 29,
Gurgaon, Haryana

VERSUS

Commissioner of ST, Delhi-IV, CGST, Gurugram

.....Respondent

Plot No. 36-37, Sector 32, Gurugram, Haryana

WITH

Service Tax Appeal No. 60471 of 2019

[Arising out of Order-in-Appeal No. 257/ST/CGST-Appeal-Gurugram/SG/2018 dated 31.12.2018 passed by the Commissioner (Appeals-II Delhi), Gurgaon]

M/s Iffco Tokio Insurance Services Ltd

.....Appellant

4th Floor, Iffco Tower,
Plot No. 3 Sector 29,
Gurgaon, Haryana

VERSUS

Commissioner of ST, Delhi-IV, CGST, Gurugram

.....Respondent

Plot No. 36-37, Sector 32, Gurugram, Haryana

APPEARANCE:

Shri P.K. Sahu, Advocate for the Appellant

Shri Aneesh Dewan with Shri Yashpal Singh, Authorized Representatives for
the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

HON’BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60019-60020/2025

DATE OF HEARING: 19.09.2024
DATE OF DECISION: 07.01.2025

PER: S. S. GARG

These two appeals are directed against the impugned order dated 28.02.2017 and 31.12.2018 passed by the Commissioner, Service Tax, Appeals-II, Delhi, whereby the Ld. Commissioner has confirmed the demand of Service tax along with penalties. Since, the issue involved in both the appeals is identical therefore both the appeals are taken up together for the purpose of discussion and disposal. The relevant details of both the appeals are given here in below:

Appeal No. **ST/60412/2017**

Sl. No.	SCN No.	Period (F	
1	No. 33/Audit/2012-13 dated 23.04.2012	2006-07 to 2010-11	38,37,428
2	No. 63/ST/GGN/2012-13 dated 01.10.2012	2011-12	9,53,663
Total			47,91,091

Appeal No. **ST/60471/2019**

Sl. No.	SCN No.	Period (F.Y)	Service Tax (Rs.)
1	1/ST/Div-XVI/2017-18 dated 21.04.2017	2014-15	19,38,046
2	16/ST/Div-XVI/2017-18 dated 17.05.2017	2015-16	24,23,859
3	D-III/ST/R-IV/SCN/Iffco Tokio/666/2012/1591 dated 26.10.2017	216-17 & 2017-18(up to 30.06.2017)	31.34,839
Total			74,96,744

2. Briefly the facts of the present case are that the appellant is engaged in providing taxable insurance auxiliary service. It is performing all its operational activities/services from IFFCO Tower, 4th Floor, Plot No. 3, Sector 29, Gurugram, and having centralized billing and accounting system at the said address. Its offices at different locations do not function independently. These are just extensions of its operational office at Gurugram and undertaking back-office activities. During the notice period, the appellant had discharged its tax liability after utilising cenvat credit of the tax paid on the input services for which the vendors had issued invoices to the local offices.

2.2 The revenue entertained the view that the appellants are not entitled to Cenvat credit on the ground that the appellant had availed and utilized Cenvat credit on input services on the strength of invoices which were not addressed to its registered premises as per Rule 4A(1) of the Service Tax Rules, 1994 read with Rule 9(2) of Cenvat Credit Rules, 2004. On these allegations, different show cause notices for different periods were issued to the appellant. The appellant filed detailed reply to these show cause notices and after following the due process, the original authority confirmed the demand; aggrieved by the decision of the adjudicating authority, appellant filed appeal before the Commissioner and the Commissioner rejected the same. Hence, the present appeals.

3. Heard both the parties and perused the material on record.

4. Ld. Counsel for the appellant submits that the impugned orders have been passed without properly appreciating the facts and the law and the binding judicial precedents. He further submits that in the Order-in-Original, the Assistant Commissioner has denied the Cenvat credit on the ground that the appellant had wrongly availed and utilized the Cenvat credit on the strength of the invoices addressed to the local offices of the appellant and not to its registered premises, in violation of Rule 4A(1) of the Service Tax Rules, 1994 read with Rule 9(2) of Cenvat credit Rules, 2004. Further, the Commissioner (Appeals) has dismissed the appeal of the appellant against the Order-in-Original by merely reiterating the findings of the Additional Commissioner without rebutting the appellant's submissions. He further submits that this issue is no more *res integra* and has been

settled by catena of decisions wherein the Hon'ble Tribunal and the High Courts have held that Cenvat credit cannot be denied on the ground that the invoice for input service has been issued to unregistered branch office. Few of the decision are mentioned here in below:

(1) C.S.T vs. Kyocera Wireless (India) Pvt. Ltd. 2016 (43) S.T.R. 542 (Kar.)

(ii) EXL Service.Com India Pvt. Ltd. vs. CCE, 2016 (43) S.T.R. 294 (Tri.)

(iii) CCE vs. Fujitsu Consulting Pvt. Ltd., 2016 (41) S.T.R. 728 (Tri.)

(iv) Market Creators Ltd. v. CCE, 2014 (36) S.T.R. 386 (Tri.)

(v) Raaj Khosla & Co. Pvt. Ltd. v. C.S.T., 2008 (12) S.T.R. 627 (Tri.)

(vi) Eveready Industries (1) Ltd. v. C.C.E, 1998 (103) E.L.T. 672 (Tri.)

(vii) Gujarat Heavy Chemicals Ltd. v. CCE, 2005 (192) E.L.T. 658 (Tri.)

(viii) Spice Digital Ltd. 03.05.2023 Final Order No. FO/ST/A/60117/2023 dated 03.05.2023.

(ix) Spice Digital 11.04.2017 Ltd. Final Order No. A/60648/2017-SM dated 11.04.2017.

(x) Rajender Kumar & Associates vs. CST, Delhi, 2021 (45) GSTL 184 (Tri. - Del.)

(xi) Mportal India Wireless Solutions (P) Ltd. vs. Commissioner, 2012 (27) STR 134 (Kar.)

(xii) Commissioner of C.EX., S.T. & Cus. Vs. Hinduja Global Solutions Ltd., 2022 (61) GSTL 417 (Kar.)

4.2 He further submits that this Tribunal in the case of Spice Digital Ltd. cited (Supra) has considered the identical issue and after relying upon the decision of the Karnataka High Court and the Rajasthan High Court has allowed the appeal of the assessee by holding that the appellant is entitled to avail Cenvat credit and the same cannot be denied by resorting to procedural irregularities.

5. On the other hand, Ld. AR reiterated the findings of the impugned order.

6. We have considered the submissions made by both the parties and perused the material on record and the various judgments relied upon by the appellant cited (Supra); we find that this issue is no more res integra and the Tribunal in various decisions cited (Supra) has consistently held that Cenvat credit cannot be denied on procedural irregularities. It is pertinent to reproduce the said findings which are contained in para 8 onwards in the case of Spice Digital Ltd and are reproduced here in below:

8. Further, we find that this issue has been considered by the Hon'ble Karnataka High Court in the case of Commissioner of Central Excise, Service Tax & Cus., Bengaluru vs. Hinduja Global Solutions Ltd. 2022 (61) GSTL 417 (Kar.) and the Hon'ble High Court of Karnataka after considering the decision of the Hon'ble Gujarat High Court in case of Commissioner of Central Excise vs. Dashion Ltd. 2016 (41) STR 884 and the decision of the Hon'ble High Court of Rajasthan in the case of Commissioner of Central Excise, Jaipur vs. National Engineering Industries Ltd. – CEA No. 3/2016 dated 08.02.2016 and the Circular of Central Board of Excise and Customs dated 16.02.2018 accepting the judgement of the High Court of Gujarat and Rajasthan, has held that the availment based on invoices issued by input service distributor prior to registration under Service Tax (Registration of Special Category of Persons) Rules, 2005 is only procedural irregularity and hence the denial of credit is bad in law. The relevant findings of the Hon'ble Karnataka High Court are reproduced herein below:-

"8. *The dispute involved herein is no more res integra in view of the judgment of the Hon'ble High Court of Gujarat in the case Dashion Ltd., supra which has been accepted by the Department in terms of the Circular dated 16-2-2018. The relevant paragraphs of the judgment of Dashion Ltd., supra is quoted hereunder for ready reference :*

7. The second objection of the Revenue as noted was with respect of non-registration of the unit as input service distributor. It is true that the Government had framed Rules of 2005 for registration of input service distributors, who would have to make application to the jurisdictional Superintendent of Central Excise in terms of Rule 3 thereof. Sub-rule (2) of Rule 3 further required any provider of taxable service whose aggregate value of taxable service exceeds certain limit to make an application for registration within the time prescribed. However, there is nothing in the said Rules of 2005 or in the Rules of 2004 which would automatically and without any additional reasons disentitle an input service distributor from availing Cenvat credit unless and until such registration was applied and granted. It was in this background that the Tribunal viewed the requirement as curable. Particularly when it was found that full records were maintained and the irregularity, if at all, was procedural and when it was further found that the records were available for the Revenue to verify the correctness, the Tribunal, in our opinion, rightly did not disentitle the assessee from the entire Cenvat credit availed for payment of duty. Question No. 1 therefore shall have to be answered in favour of the respondent and against the assessee."

9. *Considering this judgment, the Department in the Circular dated 16-2-2018, has observed thus :*

"2.(a) Decision of the Hon'ble High Court of Gujarat dated 8-1-2016 in the matter of Commissioner of Central Excise v. Dashion Ltd. in Tax Appeal No. 415 of 2013 & 662 of 2014 [2016-TIOL-111-HC-AHM-ST = [2016 \(41\) S.T.R. 884](#) (Guj.)]

(b) Decision of the Hon'ble High Court of Rajasthan dated 8-2-2016 in the matter of Commissioner, Central Excise Commissionerate, Jaipur v. National Engineering Industries Ltd. - CEA No. 3/2016 [2016-TIOL-922-HC-RAJ-CX = [2016 \(42\) S.T.R. 945](#) (Raj.)].

2.1 Department has accepted the judgments where the Hon'ble High Courts dismissed the Department's appeal inter alia holding that substantial benefit cannot be denied because of procedural irregularity.

2.2 In the case of Dashion Ltd., the assessee was engaged in manufacture of water treatment plant and other connected items and was availing benefit of Cenvat credit on the duty paid on inputs,

capital goods and input services as permissible under Cenvat Credit Rules, 2004. The assessee had five manufacturing units and had its registered office at Vatva, Ahmedabad. The assessee was also providing several taxable services such as erection and commissioning, repairing and maintenance of water treatment plant, etc.

2.3 The revenue authorities, during scrutiny of the records of the assessee, noticed that it was availing the credit of service tax paid for various services by one unit for the purpose of clearance of other unit. After gathering details from the assessee, the adjudicating authority issued show cause notice calling upon the assessee as to why the Cenvat credit of service tax on input service should not be recovered with interest and penalties. In the show cause notice itself, the adjudicating authority had referred to sub-rule (3) of Rule 15 of the Rules of 2004 as basis for such proposal. Two primary objections of the Department were that the assessee had not registered itself under the Service Tax (Registration of Special Category of Persons) Rules, 2005 and that the tax credit from one unit was utilized for discharging tax liability of another unit instead of pro rata distribution amongst different units. The adjudicating authority confirmed the duty demands with interest and penalties.

2.4 Therefore, the points of law examined were that the assessee had utilized credit from one unit for the purpose of duty liability of its other unit without pro rata distribution by the input service distributor and further the assessee had not registered itself under the Service Tax (Registration of Special Category of Persons) Rules, 2005.

2.5 Hon'ble High Court dismissed the department's appeal holding that such view was not sustainable as there was no previous restriction of this nature under Rule 7 of the Cenvat Credit Rules, 2004. Further non-registration of ISD is only a procedural irregularity for which substantial benefit of Cenvat credit cannot be denied when all the necessary records have been maintained by the respondent."

10. *The Hon'ble High Court of Madras referring to the judgment of Dashion Ltd., supra, in M/s. Pricol Ltd., supra has held thus :*

"4. The above decision has been accepted by the Central Board of Excise and Customs, vide Circular dated 16-2-2018. Therefore, the above questions have to be decided against the Revenue and accordingly, decided so."

7. Further, we find that in the case of *Rajender Kumar & Associates vs. CST, Delhi, 2021 (45) GSTL 184 (Tri. Del.)*, Hon'ble

CESTAT has held that registration of the premises is not a condition for availing cenvat credit. In this order. Hon'ble CESTAT has relied upon Hon'ble Karnataka High Court's ruling, in Mportal India Wireless Solutions (P) Ltd. vs. Commissioner, 2012 (27) STR 134 (Kar.). that there is no requirement in law that the premises should be registered for availing cenvat credit.

8. In view of our discussion above and by following the ratio of the above cited decisions (Supra), we are of the considered view that impugned orders are not sustainable in law therefore, we set aside both the impugned order by allowing the appeals of the appellant with consequential relief, if any, as per law.

(Order pronounced in the open court on 07.01.2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)