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

REGIONAL BENCH - COURT NO. I

**Service Tax Appeal No. 59 of 2015**

[Arising out of Order-in-Original No. 31/S.Tax/D-I/2015 dated 21.09.2015 passed by the Principal Commissioner, Central Excise, Delhi-I]

**M/s Sapient Consulting Pvt. Ltd.** ......**Appellant**
Ground 9 Floor, Tower B Building No.8,
Gurgaon, Haryana-122016

*VERSUS*

**Commissioner of Service Tax-Delhi-I** ......**Respondent**
Gate No.2, C.R. Building, I.P. Estate,
Delhi-110109

**APPEARANCE:**

Ms. Krati Singh, Ms. Samiksha Uniyal and Mr. Yashaswi Singh, Advocates for the Appellant
Shri Aniram Meena and Ms. Amita Gupta, Authorized Representative for the Respondent

**CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)**
**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 61462/2025**

DATE OF HEARING: 30.09.2025
DATE OF DECISION: 06.10.2025

**P. ANJANI KUMAR:**

M/s Sapient Consulting Pvt. Ltd., the appellants, are engaged in provision of Manpower Recruitment Services to SEZ units and others; Revenue was of the opinion that as the appellants provided taxable services and the exempted services, they were required to reverse an amount equal to a percentage of exempted services or the credit attributable to exempted services in terms of Rule 6 (3) of CENVAT Credit Rules. A show cause notice, dated 11.02.2012, was issued to the appellants demanding service tax, for the period April 2010 to March 2011. Learned Commissioner vide OIO dated 21.09.2015 confirmed demand of Rs.74,95,516/- under Rule 14 of CCR along with equal penalty under Section 78 of the Finance Act, 1994 and penalty of Rs.10,000/- under Section 77 ibid.

2. Ms. Krati Singh, learned Counsel for the appellants submits that the appellant is not liable to pay amount calculated under Rule 6(3) of CCR. She submits that Rule 6(6A) was introduced w.e.f 01.03.2011 by Notification No.03/2011-CX (NT) dated 01.03.2001 making clauses (1) to (4) of Rule 6 are not applicable if services are provided to SEZ units for their authorized operations. By virtue of Section 144 of Finance Act, 2012, the provision of Rule 6(6A) were made retrospectively applicable. She submits that CBEC letter no. 334/1/2012-TRU dated 16.03.2012 also clarified the same.

3. Learned Counsel also submits that the impugned order has travelled beyond the scope of the show cause notice and confirmed the duty on the ground that conditions of the Notification No.09/2009-ST dated 03.03.2009 are not satisfied. She also submits that the appellant can be made liable only to reverse the credit proportionate to the exempted services; extended period cannot be invoked and penalties cannot be imposed. She relies on the following cases in favour of all of her arguments.

- M/s Mercer Consulting India Pvt. Ltd. v. Commissioner of CGST, Gurugram, 2024 (4) TMI 328-CESTAT Chandigarh

- M/s Prumatech services Pvt. Ltd. v. Commissioner of GST & Central Excise, Chennai North Commissionerate, 2024 (7) TMI 383 - CESTAT Chennai
- M/s Link Intime India Pvt. Ltd v. Commissioner of Service Tax, Mumbai - II, 2015 (38) S.T.R 506 (Tri. - Mumbai)
- TATA Consulting Engineers Ltd v. Commissioner of Service Tax, Mumbai, 2014 (33) S.T.R. 655 (Tri. - Mumbai)
- Repro India Ltd v. UOI, 2009 (235) E.L.T. 614 (Bom.)
- M/s. Bridgeview Broadband Network P Ltd. v. Commissioner of CGST, Shimla, Final Order No. 60454/2025 dated 26.03.2025 (Tri.-Chan.)
- Dabur India Ltd (formerly known as Balsara Home Products Ltd.) v. Commissioner of Central Excise, Faridabad, 2024 (9) TMI 1545 - CESTAT Chandigarh
- Chandrapur Magnet Wires (P) Ltd. v. Collector of C. Excise, Nagpur, 1995 (12) TMI 72-SC
- Pepsico India Holdings Pvt. Ltd. v. Commissioner of Central Goods & Services Tax, Panchkula, 2025 (4) TMI 1185 CESTAT Chandigarh
- M/s Sky Automobiles v. The Principal Commissioner, Central GST, Central Excise & Service Tax, Chhattisgarh, 2024 (12) TMI 1559 - CESTAT Ahmedabad
- M/s GD Goenka Pvt. Ltd. v. The Commissioner of CGST Delhi South and Ors., 2023-TIOL-782-CESTAT-DEL
- Mahanagar Telephone Nigam Ltd. v. Union of India and Ors., 2023-TIOL-407-HC-DEL-ST
- The Commissioner, Central Excise and Customs and Another v. M/s Reliance Industries Ltd. and Commissioner of Central Excise and Service Tax v. M/s Reliance Industries Ltd., 2023-TIOL-94-SC-CX
- Delhi Airport Metro Express Pvt. Ltd. v. Commissioner of Central Excise & Customs, 2024 (1) TMI 777-CESTAT New Delhi

4. Learned Authorized Representative for the Revenue reiterates the findings of the impugned order.

5. Heard both sides and perused the records of the case. On going through the changes in the provisions of the Rules over the

period of time, it is seen that the applicability of Rule 6(3) has been excluded by the amendments made by Notification No.03/2011-CX (NT) dated 01.03.2001, inasmuch as supply of excisable goods to SEZ units for their authorized operations; by virtue of introduction of Rule 6A, the provisions were also made applicable to supply services to SEZ units; in terms of Section 144 of Finance Act, 2012, the provisions have been made applicable retrospectively. Therefore, we find that the appellants are not required to reverse any amount in terms of Rule 6(3) for the reason that the services provided by them to SEZ units are exempted. We also find support in the CBEC letter no. 334/1/2012-TRU dated 16.03.2012.

6. We find that this Bench in the case of M/s Mercer Consulting India Pvt. Ltd., vide Final Order No. 60162/2024 dated 05.04.2024, involving identical issue, found as follows:

> 7. We find that the first demand is confirmed on the allegation that the appellants have availed Cenvat Credit in excess of 20% of the amount payable on taxable output service in respect of services provided by them to SEZ, in terms of Rule 6 of CCR, 2002/2004 during the relevant period. We find that the issue is no longer res integra in view of the retrospective amendment, vide Finance Act 2012, to the effect that Rules 6 (1), (2) and (3) do not apply to Services provided to SEZ. Tribunal held in the case of Tata Consulting Engineers Ltd. (Supra)
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> > 6. There is no dispute in this case that during the period April, 2008 to March, 2010, the appellant had rendered services to SEZ unit/SEZ Developers and had also taken Cenvat credit on the inputs/input services used in the provisions of output services. These details of such services rendered to SEZ units/developers were reflected in the half yearly ST-3 returns filed by the appellants. Vide Notification No. 3/2011, dated 1-3 2011, the Cenvat Credit Rules, 2004, were amended so as to provide that there is no need to reverse any Cenvat credit taken on inputs/input services if such inputs/input services were used in rendering of output services to SEZ

> unit/SEZ developer. Further, vide Section 144 of the Finance Act, 2012, the said amendment was given retrospective effect from 10-2 2006 to 20-2-2011. In other words, during the impugned period, there was no need for the assessee to reverse any credit taken on the inputs/input services in respect of which credit was availed for rendering of output services to SEZ units/SEZ developer. The adjudicating authority has completely failed to examine the claim of the appellant, the details of which were provided to him at the time of adjudication. Therefore, we hold that the impugned order is not sustainable in law. 6.1 Further, the Hon'ble High Court of Bombay, in the case of Repro India Ltd., reported in 2009 (235) E.L.T. 614 (Bom.) held that the provisions of Rule 6(3)(b) of the Cenvat Credit Rules are not attracted in the case of exports as Rule 6(6)(v) provides an exception in the case of clearances for export. As per Section 2(m) of Special Economic Zones Act, 2005, supplying goods, or providing services, from a unit in DTA to a SEZ unit or SEZ developer is deemed as "export" and vide Section 50 of the said Act, the provisions of SEZ Act shall prevail over the provisions of other enactments. Thus supplies made to SEZ or SEZ developer amounts to "export". Viewed from this perspective also, the appellants are rightly entitled to Cenvat credit on the inputs and input services used in or in relation to rendering of output services to a unit in SEZ or to a SEZ developer.

7. In view of the above that the Revenue has not made out any case against the appellants and the impugned order is set aside by allowing the appeal of the appellant.

(Order pronounced in the open court on 06/10/2025)

**(S. S. GARG)**
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**
**MEMBER (TECHNICAL)**

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