

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

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 61048 of 2019

[Arising out of Order-in-Appeal No. 71/ST/CGST-APPEAL-GURUGRAM/SG/2019 dated 28.06.2019 passed by the Commissioner (Appeals), CGST, Gurugram, Haryana]

M/s Terracis Technologies Limited
3rd Floor, Ambience Corporate Tower, Ambience
Mall, NH-8, Gurugram, Haryana-122002

.....Appellant

VERSUS

**Commissioner of Central Excise &
Service Tax, Gurgaon-I**
Plot No.36-37, Sector-32, Gurugram,
Haryana-122001

.....Respondent

APPEARANCE:

Shri Atul Kumar Gupta, Chartered Accountant for the Appellant

Shri Aniram Meena, 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. 61762/2025

DATE OF HEARING: 09.12.2025

DATE OF DECISION: 16.12.2025

P. ANJANI KUMAR:

The appellant, M/s Terracis Technologies Ltd. (formerly known as IL & FS Technologies Ltd.) (ITL), are engaged in providing and IT related services having the subsidiary in Philippines under the name Land Registration System Inc. (LARES); M/s LARES ran into debts

due to borrowing from local banks and wanted to restructure the existing debt by raising fresh debt finance; M/s LARES hired expert services of M/s IL & FS Global Financial Services Pte. Ltd., Singapore & Hongkong; M/s LARES appointed their holding company i.e the appellant to supervise and coordinate restructuring work assigned to M/s IL & FS Global Financial Services Pte. Ltd., Singapore & Hongkong; for these purposes, M/s LARES and M/s ITL, the appellant, have entered into an agreement which also provides for release of the agreed fees payable to M/s IL & FS Global Financial Services Pte. Ltd., Singapore & Hongkong. The appellants, in the discharge of their functions as per the agreement held necessary meeting with M/s LARES, the bankers and overseas financiers; held road shows. On completion of the work, M/s IL & FS Global Financial Services Pte. Ltd., Singapore & Hongkong have raised invoices and released the payment to M/s IL & FS Global Financial Services Pte. Ltd., Singapore & Hongkong after obtaining due sanction from M/s LARES. They obtained necessary certificate under Section 195 of Income Tax Act and certificate in Form-15CB from Chartered Accountant. The appellants also raised invoice on M/s LARES for the professional fee and claimed reimbursement of fees paid to M/s IL & FS Global Financial Services Pte. Ltd., Singapore & Hongkong. The appellants have shown such fee as recoverable advance under the Head of "Current Assets"; however, the fee charged by them was treated as income and the same was reflected in ST-3 Returns.

2. On conduct of an audit, the Revenue issued a show cause notice dated 09.06.2017, demanding service tax of Rs.1,06,04,114/-

along with interest and penalties, invoking the extending period, on the foreign currency expenditure; the proposals in the show cause notice were confirmed vide impugned order dated 03.01.2019; the allegation of the Department was that the appellants have received services of banking and financial services by M/s IL & FS Global Financial Services Pte. Ltd., Singapore & Hongkong.

3. Shri Atul Kumar Gupta, learned Consultant for the appellant, submits the following that the appellants never had or held any title to the services rendered by the overseas advisors i.e M/s IL & FS Global Financial Services Pte. Ltd., Singapore & Hongkong; they have rendered the services to M/s LARES as a pure agent. He submits that moreover, in terms of Rule 5 of Service Tax (Determination of Value) Rules, 2006, the amount remitted as agent and later reimbursed cannot be considered for the purpose of taxation. He relies on the following cases:

- Rajcomp Info Services Ltd. Vs. Principal Commissioner, CGST & X. Ex., Jaipur-1-2023 (73) G.S.T.L. 237 (Tri. - Del.)
- C.C.E., CGST, Delhi - III Vs. National Informatics Centre Service Inc. -2019 (22) G.S.T.L. 394 (Tri-Del.)
- HT Media Limited Vs. Commissioner of Service Tax, New Delhi - 2017 (7) G.S.T.L. 364 (Tri. - Del.)

4. Learned Consultant further submits that even in terms of Rule 3 of Place of Provision of Service Rules 2012, the service cannot be held to be either supplied or received in India. The banking and financial services, if any, were rendered by M/s IL & FS Global Financial Services Pte. Ltd., Singapore & Hongkong to an entity

situated in Philippines. He relies on IDEX India Pvt. Ltd. – 2023 (73) GSTL 82 (Tri. Mumbai).

5. Learned Consultant submits, in addition that, extended period cannot be invoked as all the relevant facts were in the knowledge of the Department; the appellants filed Returns in October 2012 to March 2013 on 30.08.2013; the Revenue was aware of the facts well before 2014 itself; the appellants wrote a series of letters dated 24.03.2014, 16.04.2014, 05.03.2015 & 09.03.2015; the issue was not disputed during the relevant time or at least in 2015; therefore, extended period cannot be invoked. He submits that extended period cannot also be invoked due to the fact that the appellant had *bona fide* belief that the activity undertaken by them as pure agent was not taxable; the *bona fide* belief is further fortified by the fact that the transactions have been duly recorded in the balance sheet and other statutory records. Further, show cause notice has been issued on the basis of the audit conducted; therefore, extended period cannot be invoked. Learned Consultant further submits that the issue is revenue neutral in the case of the appellants themselves as even if the service tax was paid or payable by the appellants, they would have been entitled to credit. Learned Consultant submits that as the demand of duty itself is not sustainable, extended period cannot be invoked. He relies on the following cases:

- ABB limited Vs. Commissioner of C. Ex. & S.T., LTU, Bangalore – 2019 (24) GSTL 55 (Tri. - Bang.)
- Grand Royale Enterprises Ltd. Vs. Commissioner of S.T., Chennai - I-2019 (31) GSTL 453 (Tri. - Chennai)

- Commr. Of S.T., Mumbai - II Vs. Reliance Communication Ltd. - 2019 (22) GSTL 203 (Tri. - Mumbai)
- Shaikh Iqbal Mohammed Vs. Commr. Of Cus., C. Ex. & S.T., Hyderabad - IV-2019 (25) GSTL 545
- Commissioner of Service Tax, New Delhi Vs. SpiceJet Ltd. - 2023 (79) GSTL 271 (Tri. - Del.)
- Nizam Sugar Factory Vs. Collector of Central Excise, A.P. - 2008 (9) S.T.R. 314 (S.C.)
- M/s Delta Energy Systems India Private Limited Vs. Commissioner of Central Excise, Delhi - III-2025 (10) TMI 258 - CESTAT Chandigarh.
- C.S.T., New Delhi Vs. Kamal Lalwani - 2017 (49) S.T.R. 552 (Tri. - Del.)
- Mega Trends Vs. Commr. Of C. Ex., S.T. Lucknow - 2020 (38) G.S.T.L. 57 (Tri-All.)
- Mico Glass Industries Pvt. Ltd. Vs. Commissioner of Central Excise, Gurgaon-II-2025 (7) TMI 1332 - CESTAT Chandigarh
- Devraj Luxury Hotels Pvt. Ltd. Vs. Commr. Of C. Ex. & CGST, Jaipur -2022 (67) G.S.T.L. 76 (Tri. - Del.)
- International Foundation for Research and Education Vs. C.C.E. & S.T., Rohatak - 2020 (41) G.S.T.L 339 (Tri. - Chan.)
- Sant Roadlines Vs. Commissioner of C. Ex. & S.T., Panchkula - 2020 (43) G.S.T.L. 206 (Tri. - Chan.)
- D.N. Pandey & Company Vs. Commissioner of C. Ex. & S.T., Allahabad -2019 (28) G.S.T.L. 108 (Tri - All.)
- Shri Balaji Industrial Products Ltd. Vs. Commr. Of Cus. & C.Ex., Jaipur-2019 (370) E.L.T. 280 (Tri. - Del.)
- Asmitha Microfin Ltd. Vs. Commr. Of Cus., C. Ex. & S.T., Hyderabad - III-2020 (33) GSTL 250 (Tri. - Hyd.)
- Hyundai Motor India Pvt. Ltd. Vs. Commr. Of C. Ex. & S.T., L.T.U., Chennai-2019 (29) GSTL 452 (Tri. - Chennai)
- Maini Precision Products Ltd. Vs. Commissioner of Central Tax, Bengaluru East - 2021 (55) GSTL 540 (Tri. - Bang.)
- Universal Dredging & Reclamation Corpn. Ltd. Vs. Commr. Of CGST & C. Ex., Madurai - 2021 (44) GSTL 401 (Tri. - Chennai)

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

7. Heard both sides and perused the records of the case. We would like to take up the issue of limitation to begin with. We find that the learned Consultant for the appellants submits that there was no *mens rea* on the part of the appellants. We find that the relevant facts have been in the knowledge of the Department as the appellants filed the Returns for the year 2012-13 and there was a series of correspondence between the appellants and the Revenue. Audit was conducted in 2017 and accordingly, a show cause notice has been issued invoking extended period. We find that it has been held in a series of cases that extended period cannot be invoked in case the show cause notice is based on audit. We find that there is nothing on record brought by the Revenue to prove with evidence that the appellants have involved themselves in suppression of fact, mis-declaration, collusion etc. with intent to evade payment of duty. We find that Principal Bench of the Tribunal in the case of Sunshine Steel Industries – (2023) 8 Centax 209 (Tri. Del.) held that:

19. With the assistance of the learned authorized representative appearing for the Department Form ER-I that has to be submitted online has been perused. There is no space designated for the assessee to disclose that it is a related party and indeed the learned authorized representative appearing for the Department has not been able to point out any space where this information was required to be disclosed by the appellant. What has been alleged in the show cause notice is that the appellant had suppressed this information in the ER-I Form. As the said form does not require an assessee to disclose this information, it is not open to the Department to contend that the assessee had suppressed any information.

20. The Department cannot be permitted to invoke the period of limitation by merely stating that it is a case of self-assessment as even in a case of self-assessment, the Department can always call upon an assessee and seek information. It is under sub-rule (1)

of rule 6 of the Central Excise Rules, 2002 (the Rules) that the assessee is expected to self-assess the duty and sub-rule (3) of rule 12 of the Rules provides that the proper officer may, on the basis of information contained in the return filed by the assessee under sub-rule (1), and after such further enquiry as he may consider necessary, scrutinize the correctness of the duty assessed by the assessee. Sub-rule (4) of rule 12 also provides that every assessee shall make available to the proper officer all the documents and records for verification as and when required by such officer. Hence, it was the duty of the proper officer to have scrutinized the correctness of the duty assessed by the assessee and if necessary call for such records and documents from the assessee, but that was not done. It is, therefore, not possible to accept the contention of the learned authorized representative appearing for the Department that the appellant should have filed a proper assessment return under rule 6 of the Rules.

21. Departmental instructions to officers also emphasise upon the duty of officers to scrutinize the returns. The instructions issued by the Central Board of Excise & Customs (CBEC) on December 24, 2008 deal with "duties, functions and responsibilities of Range Officers and Sector Officers". It has a table enumerating the duties, functions and responsibilities and the relevant portion of the table is reproduced below:

"LIST OF DUTIES, FUNCTIONS AND RESPONSIBILITIES OF RANGE OFFICER AND SECTOR OFFICER SCRUTINY OF RETURNS

| <i>Sl. No.</i> | <i>Subject</i> | <i>Sector officer's duties</i> | <i>Range officer's duties</i> |
|----------------|------------------------------------|---|---|
| 2.1 | Scrutiny of ER-1/ER-2/ER-3 Returns | To ensure that these returns are entered in database. To carry out preliminary scrutiny of ER-1/ER-2/ER-3 Returns within a fortnight of receipt & submit the same to the Range officer along with his observations. The preliminary scrutiny is to be carried out on the basis of guidelines/instructions contained in Return Scrutiny Manual | To ensure returns and preliminary scrutiny of returns by SO as per the guidelines/instructions contained in Return Scrutiny Manual. He should also take |

necessary action for recommendation of units for detailed scrutiny and to carry out detailed scrutiny as per guidelines/instructions contained in Return Scrutiny Manual.

- 2.2 Cases of default in duty payment discovered through ER-1/ ER-2/ER-3 Returns. To enter the details of default in the register and submit report to the Range Officer. To verify the default cases, as reported by the Sector Officer, and initiate recovery proceedings. He will also furnish the report of defaulters to AC/DC. Further, in case of default for more than 30 days, the RO has to enforce the provisions contained in sub-rule 3(A) to Rule 8 of CER, 2002.
- 2.3 Completion of scrutiny of returns. Each Return, selected for detailed scrutiny, to be endorsed that the same has been subjected to scrutiny and found in order. Shortcomings, if any, and be specified alongwith action initiated. To record the fact of completion of scrutiny on all copies of the return. Details of action initiated for shortcomings

noticed.

* **24.** The Central Excise Manual published by CBEC on May 17, 2005, which is available on the website of CBEC, devotes Part VI to SCRUTINY OF ASSESSMENT. Paragraphs 2.2, 2.3 and 2.4 of this Part are reproduced below:

"2.2 The Superintendent of Central Excise in-charge of the Range Office, with assistance of the Inspectors in-charge of the factory of an assessee, will scrutinize all the returns. They shall in selected cases, call all connecting documents including invoices and the records and scrutinize the correctness of assessment.

2.3. The Deputy/Assistant Commissioner of Central Excise will scrutinize the returns of the units, which pay duty exceeding rupees one crore but less than Rs. 5 crores from PLA per annum every six months. They shall requisition all connected documents including invoices and the records and scrutinise the correctness of assessment.

2.4 The Additional/Joint Commissioner of Central Excise will scrutinize the returns of the units which pay duty of Rs. 5 crores or more from PLA per annum every six months. They shall requisition all connected documents including invoices and the records and scrutinize the correctness of assessment."

(emphasis supplied)

25. It is thus evident that not only do the Rules mandate officers to scrutinize the Returns to verify the correctness of self-assessment and empower the officers to call for documents and records for the purpose, Instructions issued by the department also specifically require officers at various levels to do so.

26. If the scrutiny by officers reveals short payment or non-payment of duty, a demand can be raised under section 11A. As per section 11A of the Excise Act, the relevant date prescribed for reckoning the time limit is „the date of filing of the return? and if no return is filed, „the last date on which the return should have been filed?. This is the date on which the officer acquires knowledge of the activities of the assessee in the form of the Return, if it is filed. The Officer can scrutinize and call for documents and records which he considers necessary. The Officer has a period of one year within which to issue the show cause notice under section 11A of the Excise Act. If no Return is filed by the due date, the officer can initiate appropriate action. The Audit examined the returns and because of the objections raised, the show cause notice was

issued. The Officers of the Department could also have scrutinized the returns and raised a demand within the normal period of limitation. The assessee cannot be blamed by merely stating that it was only when the Audit pointed out that suppression was noted or by stating that it was a case of self assessment.

8. In view of the above and in view of the various cases cited by the appellants, we are of the considered opinion that the Revenue has not made out any case to extend the period of limitation. Therefore, we find that the impugned show cause notice and the impugned order are not sustainable and are liable to be set aside. We also take into note the appellant's submission the issue involves interpretation of law and is revenue neutral. As we find that the impugned order is not maintainable on limitation itself, we do not find any reason as to why we should go into the merits of the case.

9. Accordingly, we allow the appeal on limitation.

(Order pronounced in the open court on 16/12/2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)