CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 52011 of 2015

[Arising out of Order-in-Appeal No. 33-ST-APPEAL-II-SM-GGN-2014-15 dated 24.02.2015 passed by the Commissioner (Appeals), Service Tax, Gurgaon]

M/s Agilent Technologies International Pvt Ltd ......**Appellant**
Plot No. CP-11, Sector-8
IMT Manesar, Gurgaon

VERSUS

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

APPEARANCE:

Ms. Krati Singh and Shri Monarch Mittal, Advocates for the Appellant

Shri Narinder Singh, 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. 60548/2026

DATE OF HEARING:29.05.2026
DATE OF DECISION:20.08.2026

S.S. GARG:

The present appeal is directed against the impugned order dated 24.02.2015 passed by the Commissioner of service tax, Gurgaon, whereby the learned Commissioner has dismissed the appeal of the appellant and upheld the Order-in-Original denying the refund of unutilized Cenvat Credit under Rule 5 of the Cenvat Credit Rules, 2004.

2. Briefly the facts of the present case are that the appellant is a 100% export unit, engaged in providing Business Support Services ('BSS') and Information Technology Software Services ('ITSS') to its overseas entities under specific service agreements. The appellant exported these services without payment of service tax in terms of the provisions of the Export of Service Rules, 2005.

2.1 The appellant filed for refund of the unutilised Cenvat credit under Rule 5 of the Cenvat Credit Rules, 2004 read with Notification No. 5/2006-CE (N.T.) dated 14.03.2006 and Section 11B of the Central Excise Act, 1944. After following the due process, the –original authority partially rejecting the refund claims of the appellant to the tune of Rs. 78,79,939/- for the following input services during the relevant period:

a. General Insurance Services (Rs. 24,07,013/-),

b. Works Contract Services (Rs. 42,21,009/-), and

c. Commercial or Industrial Construction Services (Rs. 12,51,917/-)

2.2 The refund was rejected on the ground of lack of the nexus with the exported output services. Aggrieved by the said order, the appellant filed the appeal before the Commissioner (Appeals) who rejected the same. Hence, the present appeal.

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

4. The learned Counsel for the appellant submits that the impugned order is not sustainable in law and is liable to be set aside as the same has been passed without properly appreciating the facts and the law; and binding judicial precedents on the identical issue. She further submits that

in the present case the appellant is seeking refund of the Cenvat credit already availed by the appellant in respect of the impugned services pertaining to the export of BSS and ITSS services. She further submits that when the availment of such Cenvat credit was not challenged by the Department in the first place under Rule 14 of the Credit Rules, refund of the same cannot be denied to the appellant now under Rule 5 of the Credit Rules.

4.1 She further submits that it is settled principle of law that availment of Cenvat credit, its utilisation and its refund are different aspects provided under the Credit Rules. She further submits that nowhere under Rule 5 of the Credit Rules, it is provided that eligibility of Cenvat credit can be determined by the Department at the time of seeking of refund by an assessee. In this regard, she relied upon the following decisions:

- ***Qualcomm India Pvt. Ltd. vs. Commr. of Cus., C. Ex. & S.T., Hyderabad-IV, 2019 (8) TMI 1645 - CESTAT Hyderabad affirmed by High Court in 2021 (11) TMI 72 - Telangana High Court***
- ***Commissioner, Service Tax Commissionerate vs. M/s HCL Comnet System & Services Ltd., Noida, 2017 (12) TMI 1661 - Allahabad High Court***
- ***M/s Genpact India vs. Commissioner of Central Goods & Service Tax, Gurugram And M/s Genpact India Pvt Ltd vs. Commissioner of Central Goods & Service Tax, Gurugram - 2025 (7) TMI 564 - CESTAT Chandigarh***
- ***M/s Ericsson India Global Service Pvt Ltd vs. Commissioner of ST, Delhi-IV, 2025 (7) TMI 1643 - CESTAT Chandigarh***
- ***M/s Guardian India Operations Pvt Ltd vs. Commissioner of Central Goods & Service Tax, Gurugram, 2025 (6) TMI 11 - CESTAT Chandigarh***

- ***Commissioner of Service Tax, Delhi vs. M/s Colt Technologies Services India Pvt. Ltd, 2025 (4) TMI 10 - CESTAT Chandigarh***
- ***Aon Specialist Services Private Limited vs. Commissioner of Service Tax, Bangalore - 2025 (8) TMI 997 - CESTAT Bangalore***
- ***M/s. Foundever CRM India Private Limited (Formerly known as M/s. Sitel Operating Corporation India Limited) vs. The Commissioner of Service Tax, Bangalore - 2025 (6) TMI 1267 - CESTAT Bangalore***
- ***M/s DBOI Global Services Pvt. Ltd. vs. Commissioner of Central Goods & Service Tax, Mumbai - 2025 (8) TMI 569 - CESTAT Mumbai M/s. Keva Fragrances Pvt. Ltd. vs. Commissioner of Central Excise, Mumbai-III, 2022 (3) TMI 271 - CESTAT Mumbai***
- ***ADP Private Limited vs. Commissioner of Service Tax, Hyderabad-II, 2020 (1) TMI 101 - CESTAT Hyderabad***
- ***Commissioner, Service Tax Commissionerate Vs. M/s HCL Comnet System & Services Ltd., Noida, 2017 (12) TMI 1661-Allahabad High Court.***
- ***M/s Genpact India Vs. Commissioner of Central Goods & Service Tax, Gurugram and M/s Genpact India Pvt. Ltd Vs. Commissioner of Central goods & Service Tax, Gurugram – 2025 (7) TMI 564-CESTAT, Chandigarh.***
- ***M/s Ericsson India Global Service Pvt Ltd. Vs. Commissioner of ST, Delhi-IV-2025 (7) 1643-CESTAT, Chandigarh***
- ***Aon Specialist Services Private Limited Vs. Commissioner of Service Tax, Bangalore – 2025 (8) TMI 997-CESTAT Bangalore.***
- ***M/s Foundever CRM India Private Limited (formerly known as M/s, Sitel operating Corporation India Limited) Vs. The Commissioner of Service Tax, Bangalore – 2025 (6) TMI 1267-CESTAT Bangalore.***

- ***M/s DBOI Global Services Pvt. Ltd. Vs. Commissioner of Central Goods & Service Tax, Mumbai-2025 (8) TMI 569-CESTAT Mumbai.***

4.2 She further submits that all the input services on which refund has been denied fall under the definition of 'Input Services' and the denial of refund is not sustainable in law. She further submits that the impugned services squarely covers in the definition of input service under 2(l) of the Cenvat Credit Rules, during the relevant period. She further submits that each of the input services has been held to be input service by many decisions of the Tribunal and the Courts. As regards the General Insurance Services and Commercial or industrial construction services and Works Contract services, she relied upon the following decisions:

<u>For General Insurance service</u>

- ***Commissioner of Customs, Central Excise and Service Tax, Noida vs. M/s. HCL Technologies Ltd., 2025 (10) TMI 1192 - CESTAT Allahabad (LB)***
- ***M/s. Tata Teleservices (Maharashtra) Limited vs. Commissioner, Service Tax, Mumbai-II, 2024 (3) TMI 1407 - CESTAT Mumbai [LB]***
- ***Genpact India (supra)***
- ***UPL Ltd. vs. C.C.E Bharuch, 2024 (1) TMI 180 - CESTAT Ahmedabad***
- ***M/s Hindustan Zinc Ltd vs. Commissioner of Central Excise, Jaipur, 2014 (7) TMI 485 - CESTAT New Delhi.***
- ***Commissioner of Central Excise, Bangalore vs. Millipore India (P.) Ltd., 2011 (4) TMI 1122 - Karnataka High Court***
- ***Commissioner of Central Excise vs. M/s. HCL Technologies, 2014 (11) TMI 663 - Allahabad High Court***
- ***HEG Ltd. vs. C.C.E. Bhopal, 2017 (6) TMI 1379 - CESTAT New Delhi.***

Ahresty India Private Limited vs. Commissioner of Central Goods & Service Tax, Faridabad, 2025 (2) TMI 551 - CESTAT Chandigarh

<u>For Commercial or Industrial Construction Services, and works Contract Service</u>

- ***M/s. Agilent Technologies International Pvt Ltd vs. CST.-New Delhi-III, 2015 (4) TMI 746 - CESTAT New Delhi***
- ***FMI Automotive Components Ltd vs. Commissioner of Central Excise, Delhi-III, 2025 (2) TMI 141 - CESTAT Chandigarh***
- ***Kansal Nerolac Paints Ltd vs. Commissioner of Central Excise, Delhi-III, 2024 (3) TMI 1038 - CESTAT Chandigarh***
- ***Ahresty India Private Limited vs. Commissioner of Central Goods & Service Tax, Faridabad, 2025 (2) TMI 551 - CESTAT Chandigarh***
- ***Commissioner Central Excise Commissionerate, Delhi-III vs. M/s Bellsonica Auto Components India P. Ltd., 2015 (7) TMI 930 - Punjab & Haryana High Court***
- ***Rico Auto Industries Ltd. vs. Commissioner of C. Excise-Delhi-III, 2023 (5) TMI 601 - CESTAT Chandigarh***
- ***M/s NGK Spark Plugs India Private Limited vs. Commissioner of Central Excise, Delhi-III, 2023 (9) TMI 642 - CESTAT Chandigarh***
- ***Artefact Projects Ltd. vs. Commissioner of C. Ex., Nagpur, 2018 E.L.T. 1041 (Tri.-Mumbai)***
- ***Sankei Giken India Pvt. Ltd. vs. Commissioner of C. Ex., Delhi, 2012 (277) E.L.T. 264 (Tri.-Del.)***
- ***Arya Vaidya Pharmacy (Coimbatore) LTd. vs. Commr. of C. Ex., Calicut, 2012 (28) S.T.R. 415 (Tri.-Bang.)***

4.3 She further relied upon the Circular No. 120/1/2010-ST dated 19.01.2010 establishing direct nexus of the impugned services with the final output services is anyways not necessary, for this, she relied upon the decision in the case of ***Reliance Corporate IT Park Ltd. Vs. Commissioner of Central Excise Thane II (Vice –***

versa) 2023 (2) TMI 826-CESTAT Mumbai. She further submits that the impugned order denying the refund is not a speaking order and the appellate authority merely quotes the case law on the requirement of nexus between input and output service but concludes without any reasoning or analysis that the impugned services lack such nexus.

5. On the other hand, learned authorized representative for the Department, reiterated the findings of the impugned order.

6. We have heard both the parties and considered the submissions as well as the decision relied upon by the appellant (Cited Supra).

7. We find that it is a settled law by various decisions (Cited Supra), wherein, it is consistently held that when the availment of Cenvat credit was not challenged by the Department under Rule 14 of the Credit Rules, refund of the same cannot be denied by resorting to Rule 5 of the Credit Rules, this issue is no more *res integra* and is covered by the various decisions (Cited Supra).

8. As regards the denial of refund for input services, namely General Insurance Service, Commercial or Industrial Construction Services and Works Contract Service, we find that the refund has only been denied on the ground that the impugned services lacks nexus with the exported output services. We also find that during the disputed period, the definition of input service was very exhaustive and each of the input services has been held to be input services by various decisions (cited supra).

9. In view of the above facts and circumstances and by following the ratio of the decisions cited above and we find that this issue regarding the impugned services are no more res integra and by following the same, we set aside the impugned order by allowing the appeal of the appellant with consequential relief, if any, as per law.

(Order pronounced in the open court on 20.08.2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Kailash