

**IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL  
SOUTH ZONAL BENCH, CHENNAI**

**Appeal Nos. ST/42117 & 42118/2018**

(Arising out of Order-in-Appeal No.654 & 655/2016 (STA-I) dated 22.11.2016 passed by the Commissioner of Service Tax (Appeals – I), Chennai)

M/s. Medigain Health Pvt. Ltd.

Appellant

Vs.

Commissioner of GST & Central Excise  
Chennai

Respondent

Appearance

Ms. Sridevi, Advocate for the Appellant  
Shri L. Nandakumar, AC (AR) for the Respondent

**CORAM**

**Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)**

Date of Hearing / Decision: **07.12.2018**

Final Order Nos. **43035-43036 / 2018**

Brief facts are that the appellants are registered under the category of Business Support Service. They filed refund claim under Rule 5 of CCR 2004 r/w Notification No. 27/2012-CE(NT) dated 18.6.2012 for the periods from January 2013 to March 2013 and April 2013 to June 2013. The original authority rejected the refund claims observing that the appellant has not registered the premises during the relevant period when the input services were availed. In appeal, Commissioner (Appeals)

observed that the appellants are not eligible to take credit of the service tax paid on various input services since the premises were not registered during the period for which the refund claim was filed. Hence these appeals.

2. After hearing both sides, the issue to be decided is whether the credit availed prior to registration of the premises is eligible or not. The issue stands settled by the decision of the Hon'ble High Court of Madras in the case of Commissioner of Service Tax, Chennai Vs. M/s. Scionspire Consulting Services (India) Pvt. Ltd. – 2017-TIOL-798-HC-MAD-ST. Following the said decision, I am of the view that the rejection of refund cannot sustain and requires to be set aside. The impugned order is set aside and the appeals are allowed with consequential relief, if any.

(Dictated and pronounced in open court)

**(Sulekha Beevi C.S.)**  
Member (Judicial)

Rex