IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHENNAI

REGIONAL BENCH – COURT No. III

Service Tax Appeal No. 41800 of 2019

(Arising out of Order-in-Appeal No. 262/2019 (CTA-II) dated 21.09.2019 passed by the Commissioner of GST & Central Excise (Appeals-II), Newry Towers, 2054/1, 12th Main Road, Anna Nagar, Chennai – 600 040)

M/s. Steel Strips Wheels Ltd. **...Appellant**
A-10, SIPCOT Industrial Growth Centre,
Oragadam, Sriperumbudur,
Kancheepuram – 602 105.

Versus

Commissioner of GST and Central Excise **...Respondent**
Chennai Outer Commissionerate,
Newry Towers, No. 2054/1, II Avenue,
12th Main Road, Anna Nagar,
Chennai – 600 040.

APPEARANCE:

For the Appellant : Ms. Manasa Srinivasan, Advocate
For the Respondent : Mr. N. Satyanarayana, Authorized Representative

CORAM:

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

DATE OF HEARING : 01.09.2025
DATE OF DECISION : 11.11.2025

FINAL ORDER No. 41291 / 2025

Order:-

This Service Tax Appeal No. ST/41800/2019 has been filed by M/s. Steel Strip Wheels Ltd. (hereinafter referred to as the 'Appellant') to assail the Order-in-Appeal No. 262/2019 (CTA-II) dated 21.09.2019 passed by the Commissioner of GST & CE (Appeals-II), Chennai (hereinafter referred to as "LAA").

2. The Appellant filed a rebate claim for Rs.16,03,215/- in terms of notification No. 41/2012-ST dated 29.06.2012 for rebate of service tax paid on specified services used by them for exports made during the period from October, 2016 to December, 2016. Vide order-in-original No. 14/2019-RF dated 22.04.2019, the original adjudicating authority partly allowed the claim in respect of certain services but rejected the rebate claim to the tune of Rs. 11,07,308/- in respect of certain other services, viz. "Handling Charge destination", "Destination Charges", "Custom Scan Charges at Destination", "Pier transfer at arrival port", "Sorting at Destination", "Container handling at port of arrival", "Warehouse charge to Destination" on the ground that as per the provisions contained in Notification No. 41/2012-ST dated 29.06.2012 only those taxable services which were availed by the Appellant beyond the factory gate and upto the port of export within the Indian territory are eligible for the sanction of rebate, whereas all the impugned services on which the Appellant has claimed rebate have been provided / delivered in the foreign territory (i.e. outside India). In this regard, the original adjudicating authority placed reliance on Order-in-Appeal No. 38/2017 (CTA-II) dated 30.06.2017 in the Appellant's own case on similar issue

for the period October, 2013 to March 2015, as the same is binding on the Adjudicating Authority.

3. The Lower Appellate Authority rejected the appeal filed by the Appellant against the impugned Order-in-Original No. 14/2019-RF dated 22.04.2019. Hence the present appeal.

4.1 The Ld. Advocate Ms. Manasa Srinivasan appeared and argued for the appellant and submitted that the present issue stands settled in favour of the Appellant in their own case for prior period (January 2016 to September 2016), *vide* the order of this Tribunal in *Steel Strips Wheels Ltd. v. CCE – 2019 (5) TMI 1290 – CESTAT Chennai*, where this Tribunal held that taxable services used beyond the factory for export of goods are specified services and are eligible for rebate under Notification No. 41/2012-ST; and that when separate definition is given in the Notification for "specified services", the definition of "input services" cannot be imported for granting rebate.

4.2 The Ld. Advocate further submitted that the above order of this Tribunal was followed by Commissioner

(Appeals) *vide* Order-in-Appeal No. 120 & 121/2019 (CTA-II) dated 16.05.2019 for allowing rebate for subsequent period (January 2017 to June 2017). It appears that no appeal has been filed by the Department against the above Order-in-Appeal.

4.3 She averred that the issue is no longer *res integra* relying upon the decisions in the cases of *Polyplex Corporation Ltd v. CCE, Meerut – 2015 (38) STR 821 (Tri. – Del.)* and *Jain Irrigation Systems Ltd. v. CCE, Mumbai – 2015 (11) TMI 972* wherein rebate of service tax for export of goods, paid on services received in foreign territories has been allowed.

5.1 The Ld. Authorized Representative Mr. N. Satyanarayana, for the revenue reiterated the findings in the order passed by the adjudicating authority, which has been upheld by the lower appellate authority. He referred to para 1(a) and para 3(g) and explanation to para 3(g) of the notification No. 41/2012-ST dated 29.06.2012 and submitted that: -

i. In terms of para 1(a) of the notification, "specified services" means –

a) in the case of excisable goods, taxable services that have been used beyond the place of removal, for the export of said goods;

b) in the case of goods other than (1) above, taxable services used for the export of said goods.

ii. In terms of para 3(g) of the notification, the claim for rebate of service tax paid on the specified services used for export of goods shall be filed within one year from the date of export of the said goods.

iii. In terms of explanation to para 3(g) of the notification, for the purpose of clause (g) of para 3 of the notification, the date of export shall be the date on which the proper officer of Customs makes an order permitting clearance and loading of the said goods for exportation under Section 51 of the Customs Act 1962 (52 of 1962)

iv. A combined reading of para 1(a) and para 3(g) and explanation to para 3(g) of the notification No. 41/2012-ST dated 29.06.2012 would reveal in the case of excisable goods specified services mean taxable services that have been used beyond factory or any other place or premises of production or manufacture of the said goods for their export. And the date of export of the said excisable goods shall be the date on which the proper officer of Customs makes an order permitting clearance and loading of the said goods for exportation under Section 51 of the Customs Act, 1962. The export of goods will attain finality once the proper officer of Customs makes an order permitting clearance and loading of the said goods for exportation. All the export procedures upto clearance and loading of the goods for exportation take place in any of the port situated within India territory. Thus, it can be construed that as per the definition of 'specified services' under the Notification only those taxable services which have been used by manufacturer of excisable goods beyond the factory gate upto the port of export within India shall be considered as eligible taxable service for claim for rebate.

5.2 The Ld. AR argued that Notification No. 41/2012-ST dated 29.06.2012 provides for refund of input service tax for specified services to the manufacturer or merchant exporter of the goods. All the services rendered at foreign ports for which the Appellant has sought Service tax refund have been rendered post export in foreign land only. Thus, these services cannot be said to be input services for export of the goods.

5.3 He averred that the Appellant is a manufacturer of automotive steel wheel rims and as per Rule 3(1) read with Rule 2(l) of CENVAT Credit Rules, 2004, they are eligible to take credit of Service Tax paid on input services which are used by him, directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal. CBEC vide its Circular No. 999/6/2015-CX dated 28.02.2015 has clarified that for exports, place of removal can be extended only up to 'Port of export', and in no case place of removal can be beyond the port/ICD/CFS.

5.4 Further, the Learned AR contended that in view of the above facts it is quite obvious that as per the provisions contained in the impugned Notification only those taxable services which were availed by the Appellant beyond the factory gate and upto the port of export within the Indian Territory will be qualified for sanctioning of rebate. However, the impugned services on which the Appellant has claimed rebate have been provided in the foreign territory.

6. I have considered the submissions of both sides and perused the appeal records and case law relied upon.

7. The issues for consideration in this appeal are: -

i. Whether the impugned services used by the Appellant for exports during the period from October, 2016 to December, 2016 are "Specified Services" or not? and
ii. Whether the impugned order of the LAA which upheld the rejection of Appellant's claim for rebate of the service tax paid by the Appellant on the impugned services used by the Appellant for exports should be set aside or not?

8. At the outset, it is necessary to consider the main submission of the Learned AR that CBEC vide its Circular No. 999/6/2015-CX dated 28.02.2015 has clarified that for exports, place of removal can be extended only up to 'Port of export', and in no case place of removal can be beyond the port/ICD/CFS.

9. It is not disputed that the impugned services were used beyond the factory of production or manufacture of

Appellant's export goods. In this regard, it is observed that the amendment made to notification No. 41/2012-ST vide notification No. 1/2016 dated 03.02.2016 read with Section 160(1) and Section 160(2) of the Finance Act, 2016 whereby (a) the meaning of "specified services" was substituted retrospectively to the effect that "specified services" means taxable services that have been used beyond factory or any other place or premises of production or manufacture of excisable goods, for their export; and (b) rebate of all such service tax which had been denied, but which would not have been denied had the amendment been in force at all material times, was ordered to be granted, supports the contention of the Appellant that the taxable services used by them are Specified Services, in as much as the said services were used beyond the factory of production or manufacture of Appellant's export goods. In view of the above, CBEC Circular No. 999/6/2015-CX dated 28.02.2015 relied on by the Learned AR has no relevance for deciding the issue of whether the impugned services used by the Appellant for exports during the period from October, 2016 to December, 2016 are "Specified Services" or not.

10. The present dispute pertains to exports made by the Appellant during the period from October 2016 to

December 2016. It is observed that the Appellant's submission before the lower appellate authority that the issue is settled in their favour by this Tribunal in Final Order No. 40757-40758/2019, dated 01.05.2019 in their own case has been rejected on the ground that the said order had not attained finality, as the same had not yet been accepted by the department.

11. The Appellant now argues that the above Final Order No.40757-40758/2019, dated 01.05.2019 *[2019 (5) TMI 1290 – CESTAT Chennai]* was followed by Commissioner (Appeals) *vide* Order-in-Appeal No. 120 & 121/2019 (CTA-II) dated 16.05.2019 for allowing rebate for subsequent period (January 2017 to June 2017). The Appellant's submission that no appeal has been filed by the Department against the above Order-in-Appeal is not disputed by the Learned AR for the Revenue. It is observed that Final Order No.40757-40758/2019, dated 01.05.2019 *[2019 (5) TMI 1290 – CESTAT Chennai]* pertains to exports made by the Appellant during the prior period (January 2016 to September 2016). Thus, as on date, the issue has been settled in favour of the appellant for exports made during the prior period (January 2016 to September 2016) and subsequent period (January 2017 to June 2017).

12. In Final Order No. 40757-40758/2019, dated 01.05.2019, this Tribunal held that taxable services used beyond the factory for export of goods are specified services and are eligible for rebate under Notification No. 41/2012-ST. Further it was held that when separate definition is given in the Notification for "specified services", the definition of "input services" cannot be imported for granting rebate. The relevant paragraphs of the said decision of this Tribunal read as under: -

> *"**9**. The refund has been rejected alleging that the services have been availed beyond the place of removal. For better appreciation, relevant part of the Notification No. 41/2012, prior to amendment is extracted as under: -*
>
> > *(A) "specified services" means –*
> >
> > *(i) in the case of excisable goods, taxable services that have been used beyond the place of removal, for the export of said goods;*
> >
> > *(ii) in the case of goods other than (i) above, taxable services used for the export of said goods.*
>
> ***10**. The above notification was amended by amendment Notification No.1/2016-ST, dated 03.02.2016. The relevant part is reproduced as under:-*
>
> > *(A) "specified services" means –*
> >
> > *(i) in the case of excisable goods, taxable services have been used beyond factory or any other place or premises of production or manufacture of the said goods, for their export;*
> >
> > *(ii) in the case of goods other than (i) above, taxable services used for the export of said goods.*

***11**. From the amendment, it is seen that the words "beyond the place of removal" has been deleted and instead by the amendment notification the definition of "specified services" is defined to mean as "the taxable services that have been used beyond factory or any other place or premises of production or manufacture of the said goods for their export". Thus when the taxable services have been used beyond factory or beyond any other place, the same would be eligible for rebate/refund. The interpretations of the authorities below that these services are "input services" and, therefore, when such services are used beyond the place of removal, they are not eligible for credit is misconceived. The definition of "input services" as given in Cenvat Credit Rules lay down the law with regard to eligibility of credit. When separate definition is given in notification with regard to the "specified services" for which refund can be claimed, the definition of "input services" cannot be imported to the application of refund. It is also to be said that the intention of the said notification granting refund/rebate is to make the export of goods free from duty and taxes.*

***12**. The Tribunal in the case of M/s. Polyplex Corporation Ltd., Vs Commissioner of Central Excise, Meerut-II reported in 2015 (38) S.T.R.821 (Tri.-Del.) has analysed the issue and held as under:-*

> *"8. With regard to services, namely, Ocean freight, On-Carriage, and Terminal Handling (Destination), the argument of the learned AR for the Revenue is that services availed by the appellant outside India, they are not entitled to claim refund of Service Tax. To claim refund of Service Tax on services in question provided by the service provider located in India and the service recipient is also located in India. I find that service provider in India was required to be delivered the goods outside India at the destination of the buyers, the charges on the services have to be formed part of the price of the goods in question. Therefore, I hold that the appellant is entitled to claim refund of Service Tax on these services. With regard to learned AR"s contention that the appellant has never said that the goods sold were under the ownership of the appellant till they reached to foreign*

buyers. This argument of the learned AR is not acceptable as the ownership of the goods remained with the appellant."

***13**. Similar view was taken by the Tribunal in the case of M/s. Jain Irrigation Systems Ltd., (supra), wherein, it was held as under: -*

"7. It can be seen from the above reproduced portion of the clauses of notification, that it talks about granting of rebate on specified goods which is defined as services which have been used beyond the place of export of such goods. It is undisputed that in the case in hand, appellant exported the excisable goods and utilized the services for such export and the place of removal in the case in hand is factory gate. It is also undisputed that in some of their clients' case, appellant had accepted the terms of delivery of the goods till the door steps of the clients. It would mean that the appellant was responsible for the delivery of the goods in the hands of the appellant's clients. Hence services received by the appellant for such activity is eligible for refund under Notification No. 41/2012-S.T. (as reproduced hereinabove).

8. I find strong force in the contentions raised by the learned Counsel that identical issue has been decided by the Delhi Bench in the case of Polyplex Corporation Ltd. (supra) and I reproduce the ratio as in para 8.

"8. With regard to services, namely, Ocean freight, On-Carriage and Terminal Handling (Destination), the argument of the learned AR for the Revenue is that services availed by the appellant outside India, they are not entitled to claim refund of Service Tax. To claim refund of service tax on services in question provided by the service provider located in India and the service recipient is also located in India. I find that service provider in India was required to be delivered the goods outside India at the destination of the buyers, the charges on the services have to be formed part of the price of the goods in question. Therefore, I hold that the appellant is entitled to claim refund of service tax on these services. With regard to learned AR's contention that the appellant has never said that the goods sold were under the ownership of the appellant till they reached to foreign buyers. This argument of the learned AR is not acceptable as the ownership of the goods remained with the appellant."

9. In view of the foregoing and in the facts and circumstances of the case, I find that the impugned orders to the extent contested before the Tribunal are unsustainable and liable to be set aside.

***14**. From the above discussions and following the dictum laid in the above cases, I am of the view that the rejection of refund* *claim on the specified services is against law and unjustified. The same is set aside. The impugned order is modified to the extent of granting the rebate which has been disallowed by the Commissioner (Appeals). The appeals are allowed with consequential reliefs, if any."*

13. Judicial discipline requires that the above judgment of this Tribunal based on earlier decisions of the Tribunal in the cases of *Polyplex Corporation Ltd v. CCE, Meerut [2015 (38) STR 821 (Tri. – Del)]* and *Jain Irrigation Systems Ltd. v. CCE, Mumbai [2015 (11) TMI 972]* should be followed. Therefore, I hold that the Appellant is eligible for the refund of Rs.11,07,308/- as claimed and the impugned Order-in-Appeal No. 262/2019 (CTA-II) dated 21.09.2019 is ordered to be set aside.

14. Thus, the appeal is allowed as above with consequential relief, if any, as per the law.

(Order pronounced in open court on 11.11.2025)

Sd/-

(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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