CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. I

Service Tax Appeal No. 41329 of 2016

(Arising out of Order in Appeal No.36/2016 - ST, dated 28.03.2016 passed by the Commissioner of Central Excise (Appeals-I), Coimbatore

SKM Egg Products Export India Ltd. **.... Appellant**
Vill Punjaikilambad
Cholangapalayam
Erode, Tamil Nadu 638 154

VERSUS

Commissioner of GST and Central Excise **...Respondent**
No.1, Foulks Compond, Anai Road
Salem 636 001

APPEARANCE:

Ms. Mathanghi, Advocate for the Appellant
Shri. N.Satyanarayana, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V, MEMBER (JUDICIAL)

FINAL ORDER No.40031/2026

DATE OF HEARING: 15.09.2025
DATE OF DECISION:08.01.2026

Per Ajayan T.V.

The Appellant SKM Egg Products Export (India) Ltd, is challenging the Order in Appeal No.36/2016 dated 28.03.2016 (impugned order) whereby the Appellate Authority has rejected the Appellant's appeal and upheld the OIO No.01/2016 dated 19-01-2016.

2. The relevant facts are that the Appellant are manufacturers and exporters of whole egg powder, egg yolk powder and albumen powder. The Appellant had received export proceeds of amounts only after deduction of bank charges by the foreign banks and it appeared to the Department that such deductions were towards services classifiable as "Banking and Other Financial Services" being rendered

by such banks on which the appellant was required to pay service tax in terms of Section 66A of the Finance Act, 1994 read with Rule 2(1)(d)(i)(G) and Rule 6 of the Service Tax Rules, 1994. The Statement of Demand issued in the present case resulted in the Adjudicating Authority confirming a demand of Rs.1,74,586/- for the period 01-10-2013 to 31-03-2014 along with penalty of Rs.17459/- under Section 76 of the Finance Act ibid vide the Order in Original dated 19.01.2016 mentioned above. The appeal against the said order was rejected vide the impugned order challenging which the Appellant is now before this Tribunal.

3. Ms.Mathanghi, Ld. Advocate appearing on behalf of the Appellant, submitted that the present Statement of Demand had been preceded by earlier demands on identical facts, the proceedings in respect of which has culminated in Final Orders in favour of the Appellant by the Chennai Bench of the Tribunal. Stating that the issue is no more res integra and squarely covered in the Appellant's favour, the Ld. Counsel produced the earlier decisions given by the Tribunal in their own case vide the Final Order No.40223/2023 dated 31-03-2023, Final Order No.40113/2025 dated 21-01-2025 and Final Order No.40569/2025 dated 02-06-2025. She prays that the appeal be allowed in terms of the aforesaid Final Orders.

4. Shri. N. Satyanarayana, Ld. Authorised Representative appearing for the Respondent, reiterated the findings of the Ld. Appellate Authority as given in the impugned order in appeal.

5. Heard both sides, perused the appeal records and the Final Orders submitted.

6. The only issue that arises for our determination is whether the bank charges deducted from the export proceeds credited to the appellant's account by the Foreign Banks during the disputed period are exigible to service tax under "Banking and Other Financial Service" on which the appellant was required to pay service tax in terms of Section 66A of the Finance Act, 1994 read with Rule 2(1)(d)(i)(G) and Rule 6 of the Service Tax Rules, 1994.

7. We find that it is undisputed that it is the State Bank of India who has been engaged by the appellant and is paying service tax for its services on the bill raised. There is no evidence let in of the appellant having engaged the foreign bank or having any dealings directly with the foreign bank so as to consider the appellant to have received any services from the foreign bank. In fact, the adjudicator has merely stated that he is not expected to go into the merits of the subject demand since the same pertains to the subsequent period and therefore has concluded that the demand of service tax is sustained. As rightly contended by the Appellant, the issue on identical facts and circumstances stands decided in the Appellant's favour by the aforecited Final Orders in so far as the earlier period is concerned. The relevant portion of the decision as given in one such final order namely, Final Order No.40569/2025 dated 02-06-2025, reported in ***2025 (6) TMI 184-Cestat Chennai, as M/s. SKM Egg Products Export (India) Ltd v. Commissioner of GST & Central Excise, Salem***, is reproduced below: -

> "5. Heard both sides and perused the records of the case. We find that this Tribunal has decided the very same issue in favour of the appellants in their own case vide Final Order No. 40223/2023 dated 31.3.2023 on a Show Cause Notice issued to the appellants covering the period 2006 – 2007 and vide Final Order No. 40113/2025 dated 21.1.2025 on a Show Cause Notice issued to the appellants covering the period July 2012 to March 2013. We find that the present proceedings are for the period from 1.4.2013 to 30.9.2013. We find that this Bench vide Final Order No. 40223/2023 dated 31.3.2023 has held as under:-
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> > "5.1 The main issue involved in this case is whether the amount which was deducted by the Foreign bank towards the bank charges are taxable under the service "Banking and other Financial Service" for the period 2006-2007 to 2010-2011? The other issues involved are whether invocation of extended period and imposition of penalties are sustainable in the facts of the case?
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> > 5.2 We find that the appellants have submitted the documents for realization of export sale proceeds to their bank namely SBI, which in turn has used the services of the foreign bank for collection of export sale proceeds. Obviously, the foreign banks who have rendered their services, have deducted their charges while remitting the export sale proceeds to SBI. The appellant has never dealt with the foreign bank on his own and the Banking and Other Financial Service if at all was rendered only to SBI. Amount charged by the foreign bank while remitting export sale proceeds, whether can be subjected to service tax or not has been decided by the CESTAT Principal Bench, New Delhi

in the case of Theme Exports Pvt. Ltd. v. CST, Delhi (supra), by relying on the ratio laid down by the Tribunal in the case of M/s. Dileep Industries Pvt. Ltd. v. CCE, Jaipur (supra), where the Tribunal held as under:-

4. We find that the issue arising out of present dispute is no more res integra, in view of the decision of this Tribunal in the case of M/s. Dileep Industries Pvt. Ltd. v. CCE, Jaipur - 2017 (10) TMI 1231-CESTAT, New Delhi. The relevant paragraph in the said decision is extracted herein below:-

"4. After hearing both the parties and on perusal of record, it appears that the first issue is pertaining to the collection charges of the Indian bankers who in turn send the same to the appellant for collection to the foreign bankers. The department has demanded Rs. 2,37,087/- from the appellant. From the record, it appears that while exporting their goods, they lodged their bills for collection to the Indian Bankers who in turn send the same to the foreign banks. The foreign banks while remitting the money to the Indian Bank, deduct their charges for collection of bills which in turn are charged by the Indian Banks from the appellants. When it is so, then the appellant are not entitled to pay the service tax. The identical issue has come up before the Tribunal in the case of Greenply Industries Ltd. v. CCE, Jaipur (Final Order No. 50149/2014 dated 3-1-2014) where it was observed that-

"4. We find that no documents have been produced showing that foreign bank has charged any amount from the appellant directly. The facts as narrated in the impugned order clearly indicate that it is the ING Vyasa Bank who had paid the charges to the foreign bank. In view of this, the appellant cannot be treated as service recipient and no service tax can be charged under Section 66A read with Rule 2 (1)(2)(iv) of the Service Tax Rules, 1994. Moreover, we also find that in appellants own case for the previous period similar order had been passed by the original adjudicating authority and on appeal being filed against the same, the Commissioner (Appeals), vide his order in appeal dated 12.11.08 has set aside that order and as per the appellant's counsel, no appeal has been filed against that order. In view of this, the impugned order is not sustainable, the same is set aside and appeal is allowed"."

5. By following our earlier decision (supra), we allow the claim of the appellant in this regard." "

8. In view of the above, respectfully following the aforecited Final Order, we hold that the demand made on the appellant is untenable. Therefore, the impugned order in appeal cannot be sustained and is hereby set aside.

The appeal is allowed with consequential relief(s), in law, if any.

(Order pronounced in open court on 08.01.2026)

(AJAYAN T.V.)	**(M. AJIT KUMAR)**
Member (Judicial)	Member (Technical)

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