IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. III

Service Tax Appeal Nos. 41109 to 41113 of 2015

(Arising out of Order-in-Appeal Nos. 50-54/2015 (STA-I) dated 19.02.2015 passed by the Commissioner of Service Tax (Appeals-I), Newry Towers, 2054/1, 12th Main Road, Anna Nagar, Chennai – 600 040)

M/s. Nokia Solutions and Networks India Private Limited **...Appellant**
Plot No. OZ-08, SIPCOT Industrial Park,
Electronic Hardware (Hi-Tech) SEZ,
Panrutti Village, Oragadam,
Sriperumbudur,
Kanchipuram – 603 109.

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 : Mr. Karthick Sundaram, Advocate
For the Respondent : Mr. M. Selvakumar, Authorized Representative

CORAM:

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

DATE OF HEARING : 07.11.2025
DATE OF DECISION : 21.01.2026

FINAL ORDER Nos. 40111-40115 / 2026

Order:-

This is a common appeal filed by M/s. Nokia Solutions and Networks India Private Limited (hereinafter referred to as the 'Appellant') to assail the common Order-in-Appeal No. 50,51,52,53 & 54/2015 dated 19.02.2015 passed by the Commissioner of Service Tax (Appeals-I), Chennai (hereinafter referred to as "LAA").

2. Brief facts of the case are that the Appellant, which is a registered SEZ unit, filed five refund claims for refund of Service Tax amounting to Rs. 1,48,45,466/-. Vide Order-in-Original Nos. 55/2011(R) dated 28.07.2011, 60/2011(R) dated 09.08.2011, 78/2011(R) dated 14.11.2011, 79/2011(R) dated 14.11.2011 and 80/2011(R) dated 14.11.2011, the original adjudicating authority partly allowed the claims but rejected the refund claim to the tune of Rs. 46,20,253/- in respect of certain services.

3. The rejected refund claims fall into three categories as under: -

i. Services which were not used by the Appellant for authorised operations, *viz*. "Rent-a-cab Operator Services", "Outdoor Caterer's Services", "Customs House Agent Services used for clearance of goods to Domestic Tariff Area" and "Services used for DTA clearance", the total rejected refund claim in respect of which amounts to Rs. 44,45,035/-.

ii. Services consumed within the Special Economic Zone, “Security Agency Services”, the rejected refund claim in respect of which amounts to Rs. 1,70,998/-.

iii. Services for which invoices were not raised on the Appellant’s unit located at SIPCOT, Sriperumbudur but raised on Gurgaon unit of the Appellant, the rejected refund claim in respect of which amounts to Rs.4,220/-.

4. The reasons stated by the original authority for rejection of refund claims of the first category, viz. “Rent-a-cab Operator Services”, “Outdoor Caterer’s Services”, “Customs House Agent Services used for clearance of goods to Domestic Tariff Area”, “Services used for DTA clearance”, and “Security Agency Services”, all of which are approved by the Approval Committee, is that they were not used by the Appellant for authorised operations in the SEZ in terms of notification Nos. 9/2009-ST dated 03.03.2009 and 17/2011-ST dated 01.03.2011 as the services were not used in relation to manufacture of goods.

5. The refund claim of service tax paid on “Security Agency Services” was rejected on the ground that notification

No. 15/2009-ST dated 20.05.2009, which was issued to amend the notification No. 9/2009-ST dated 03.03.2009, provides for unconditional exemption to services consumed within the SEZ without following the refund route and thereby, the exemption by way of refund would be limited to the situations where taxable services provided to SEZ are consumed partially or wholly outside SEZ whereas the Appellant has consumed the "Security Agency Services" wholly within the SEZ.

6. The refund claim in respect of invoices raised on the Gurgaon unit of the Appellant was rejected on the ground that the actual service recipient is the addressee of the invoices, viz. Gurgaon unit, and not the Appellant located at Sriperumbudur.

7. The LAA rejected the appeal filed by the Appellant against the Order-in-Original Nos. 55/2011(R) dated 28.07.2011, 60/2011(R) dated 09.08.2011, 78/2011(R) dated 14.11.2011, 79/2011(R) dated 14.11.2011 and 80/2011(R) dated 14.11.2011. Hence the present appeal.

8.1 The Ld. Advocate Mr. Karthik Sundaram appeared and argued for the appellant and submitted that all the issues based on which the impugned order denied refund to the Appellant have been settled in favour of the Appellant in the case of their own group company in Nokia India Pvt. Ltd. v. Commissioner of ST, Chennai, Final Order Nos. 42340-42342/2016 dated 25.11.2016 (CESTAT, Chennai), where it was held that once the Approval Committee has approved services such as Rent-a-Cab and Outdoor Catering as authorised operations and the assessee has paid service tax on the services utilized in connection with the authorised operations, refund of service tax cannot be denied in terms of Notification 09/2009-ST. Further, he submitted that the above view has been consistently followed in numerous Tribunal decisions including the recent decision of this Tribunal in Hexaware Technologies Ltd. v. Commissioner of GST & Central Excise, Chennai, Final Order Nos. 40672-40677/2025 dated 26.06.2025 (CESTAT Chennai), where it was held as under:

> *"In view of the above discussion and appreciating the facts and applying the ratio of the above decisions relied upon, we are of the view that once the services are approved by the Approval Committee and are utilized in relation to the authorized operations in SEZ, rejecting a part of the claims is not in order as above. However, the Refund Sanctioning Authority has to satisfy himself that these input services are approved by the Approval Committee, due service tax has been paid, no CENVAT credit on these services availed and are used authorized operations."*

[Emphasis Supplied by the Appellant]

8.2 The Ld. Advocate submitted that it is the settled law that once the Approval Committee has approved services such as Rent-a-Cab and Outdoor Catering as authorised operations and the assessee has paid service tax on the services utilized in connection with the authorized operations, refund of service tax cannot be denied. In this regard, he relied upon the decisions in the following cases: -

i. *Hexaware Technologies Ltd. v. Commissioner of GST & Central Excise, Chennai [Final Order Nos. 40672-40677/2025 dated 26.06.2025 (CESTAT Chennai)],*
ii. *Nokia India Pvt. Ltd. v. Commissioner of ST, Chennai [Final Order Nos. 42340-42342/2016 dated 25.11.2016 (CESTAT, Chennai)],*
iii. *Sai Wardha Power Company Ltd. v. Union of India [2015 (39) S.T.R. 952 (Bom.)],*
iv. *Vision Pro Event Management v. Commissioner, 2019 (368) E.L.T. 555 (Trib. – Chennai),*
v. *Commissioner v. Eaton Industries Pvt. Ltd. [2011 (22) S.T.R. 223]*

8.3 Referring to the decisions in the cases *of Intas Pharmaceuticals Ltd. v. CST, Ahmedabad [2013 (32) STR 543 (Tri. Ahmd.)], Nokia India Pvt. Ltd. v. Commissioner of ST, Chennai [Supra]* and *Hexaware Technologies Ltd. v. Commissioner of GST & Central Excise, Chennai*, the Ld. Advocate argued that Section 26 read with Section 51 of the SEZ Act mandate supplies made to a SEZ Unit for authorised operations in the SEZ cannot be subject to tax; and Refund Notifications cannot be inferred to impose any disability on availing of the tax refund. In this regard, he pointed out that as per the Approval bearing No. 8/6/2007-Oragadam SEZ II dated 16.07.2009, the following services are amongst the specified services for the Appellant’s authorised operations:

(a) Outdoor Catering Services

(b) Rent-a-cab Services

(c) Customs House Agent Services (Services used for DTA clearance)

(d) Security Agency Services

8.4 The Ld. Advocate placed reliance upon the decision in Intas Pharmaceuticals (*Supra*) to submit that the services being fully consumed within the SEZ and there is no reason to deny refund.

8.5 In respect of the invoices addressed to Gurgaon Unit, the Learned Advocate averred that the tax payment, service recipient, and use in SEZ are undisputed and mere mention of wrong address cannot disentitle the Appellant from seeking refund of service tax.

9.1 *Per contra*, Mr. M. Selvakumar the Ld. Authorized Representative for the Revenue supported the findings in the impugned order. He submitted that “Rent-a-cab Operator

Services", "Outdoor Caterer's Services" are services meant for staff welfare and therefore cannot be considered as having been used in the authorized operations of the unit.

9.2 Further, he submitted that "Customs House Agent Services used for clearance of goods to Domestic Tariff Area" and "Services used for DTA clearance" are not services required in relation to the manufacture of goods in the SEZ unit and therefore, these services were not used by the Appellant for authorised operations in the SEZ.

9.3 The Ld. AR referred to the findings in para 13(ii) of the Order-in-Original No.55/2011 (R) dated 28.07.2011 and reiterated that in terms of Notification No. 9/2009-ST dated 03.03.2009, as amended vide notification No. 15/2009-ST dated 20.05.2009, services consumed within the SEZ are unconditionally exempted from service tax and therefore, the exemption by way of refund would be limited to situations only when taxable services provided to SEZ are consumed partly or wholly outside SEZ. He averred that the services of security agency services are consumed within the SEZ and therefore, the refund claimed on the service tax paid with respect to security agency services is liable for rejection.

10. Heard both sides and perused the appeal records and also the case laws relied upon.

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

i. Whether the rejection of refund claims amounting to Rs.44,45,035/- in respect of "Rent-a-cab Operator Services", "Outdoor Caterer's Services", "Customs House Agent Services used for clearance of goods to Domestic Tariff Area" and "Services used for DTA clearance" by holding that the Services were not used by the Appellant for authorised operations is justified or not?

ii. (Whether the rejection of refund claim of Rs.1,70,998/- in respect of "Security Agency Services" on the ground that the services are wholly not consumed within the Special Economic Zone is justified or not?

iii. Whether the rejection of refund claim of Rs. 4,220/- in respect of Services for which invoices were not raised on the Appellant's unit located at SIPCOT, Sriperumbudur but raised on Gurgaon unit of the Appellant is justified or not?

12. Identical issues came up for consideration in the case of *Nokia India Private Ltd. Versus Commissioner of Service Tax, Chennai [Final Order Nos. 42340-42342/2016 dated 25.11.2016 (CESTAT, Chennai)]* where the facts are similar to the case on hand except that the appellant therein did not dispute the rejection of refund claim in respect of invoices relating to addresses other than SEZ but contested the disallowance of refund on the other two grounds, *viz*.,

(i) Services were not used by the Appellant for authorised operations; and

(ii) Services are not consumed within the Special Economic Zone

There, the refund claimed on service tax paid on "Maintenance and Repair Service" and "Business Support Service" was rejected by the Department on the ground that the services were consumed within the SEZ and the refund of service tax on "Rent-a-Cab Operator Service" and "Outdoor catering service" was rejected by the Department on the ground that the services were not essential input services for authorized operations. On appeal, the Tribunal ruled in favour of the Appellant by relying upon the judgments in the case of *Intas Pharma Ltd. Vs CST Ahmedabad – 2013 (32) STR 543 (Tri.-Ahmd.)* and *Nokia Solutions and Networks India Pvt. Ltd.*

[Final Order No. 41830-41832/2016 dt. 07.10.2016]. The relevant portion of the said judgment is reproduced below:-

> *"**4**. Heard both sides. Doubtless, the Notification No.9/2009-ST as amended by Notification No.15/2009-ST provided for abinitio exemption from discharge of service tax liability by an SEZ unit in respect of authorized services consumed fully within the SEZ. This however, in my view, cannot disentitle such a unit of refund of the service tax liability discharged even when all such services have been consumed fully within the SEZ. It is further seen that list of specified services have been issued by Development Commissioner for authorized operations by the unit within MEPZ/SEZ in which disputed services viz. Rent-a-cab services, and Outdoor catering services are listed out at Sl.No.20 & 25 respectively. Thus, I find that the conditionalities in para (i) of Notification No.9/2009-ST, as amended, are satisfied. At the same time, type and genre of services provide under these heads should also not foul the definition of Rule 2(l) of the Cenvat Credit Rules, 2004, however, that is not the issue in dispute here. I find that case laws relied upon by learned advocate are on all fours with the issue at hand. Tribunal's decision in Intas Pharma Ltd. Vs CST cited supra has been followed in a number of other subsequent Tribunal s decisions. The relevant paragraphs of the Intas Pharma Ltd. decision are worthy of reproduction as under :*
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> > *"8. In view of the legislated exemption supra and since provisions of the 2005 Act are provided an overriding effect vide Section 51; and absent any provision in the Act which eclipses the overarching trajectory of the 2005 Act, the immunity to Service Tax in respect of taxable services provided in relation to SEZ is a legislatively enjoined immunity. Therefore, any Service Tax paid/remitted by a service provider is liable to be refunded to the provider who has remitted Service Tax in relation to taxable services provided to a developer or unit, to carry on authorized operations in a SEZ.*

9. However, the issue in this case is refund claimed by the petitioner as the recipient of the taxable service of Architect, Interior Decorator and Consulting Engineer, i.e. in respect of those services provided to the appellant by M/s. Venkataramanan Associates. Notification No. 9/2009-S.T., dated 3-3-2009 as earlier adverted to, enables claim of exemption by developers or units in SEZ by way of refund of Service Tax paid for services used in relation to authorized operations in SEZ, insofar as the claim for refund is filed within six months or within such extended period as the Assistant Commissioner or Deputy Commissioner of Central Excise, as the case may be, shall permit.

10. Insofar as Notification No. 15/2009-S.T. is concerned, Para c of the earlier Notification No. 9/2009-S.T. was substituted. The current requirement is that the exemption claimed by the developer or units of SEZ shall be provided by way of refund of Service Tax paid on the specified services used in relation to the authorised operations in the SEZ, except for services consumed wholly within the SEZ.

11. On true and fair construction of Notifications 9/2009 and 15/2009 issued under Section 93(1) of the Act, considered in the light of the overarching provisions of Sections 7 and 26(e) of the 2005 Act, the conclusion appears compelling that neither Notification 9/2009 nor 15/2009 disentitle immunity to Service Tax enjoined by the provisions of the 2005 Act. It therefore appears that Notification Nos. 9/2009 and 15/2009 merely contour the process by which the benefit of exemption/immunity to tax is operationalised. Notification Nos. 9/2009 and 15/2009 have provided a facilitative regime whereby a developer or units of SEZ, as recipients of taxable service are enabled the facility of claiming refund of Service Tax, remitted by taxable service providers in relation to the taxable services provided to a unit in a SEZ. On this harmonious construction, the immunity to Service Tax provided under Section 7 or 26 of the 2005 Act cannot be so interpreted as to be eclipsed the procedural prescriptions of Notification No. 9/2009 or 15/2009. These Notifications are calibrated to enable recipients of taxable services (exempt from liability to tax under the provisions of the 2005 Act), to claim refund of the Service Tax, wherever assessed and collected by Revenue or remitted otherwise by the taxable service provider, inadvertently. Considered in the light of this analysis, the substituted provisions, of clause/sub-paragraph c of Notification No. 15/2009 cannot be inferred to have imposed any disability on the recipient of services consumed wholly within the SEZ, from seeking refund of Service Tax remitted on such transactions, by the providers of such services."

***5**. The decision of CESTAT Chennai in the case of Nokia Solutions and Networks India Pvt. Ltd. [Final Order No.41830-41832/2016 dt. 7.10.2016], which is in appellant's favour is also reproduced below for ready reference :*

> *"Appellant is a manufacturing unit located in SEZ. The Approval Committee has permitted the appellant to avail the services of rent-a-cab service as well as outdoor catering service and custom house agent service. But there is no evidence in respect of the third service. Therefore, learned authorities below have correctly disallowed CENVAT credit on that.*
>
> *2. So far as CENVAT credit on rent-a-cab operator service and outdoor catering service is concerned, when the approval committee has allowed, such services to be availed by a SEZ unit, refund of service tax paid on such service is undeniable.*
>
> *3. Once tax is paid and that is verifiable from record and also that is covered by the approval committee's letter, disallowance of refund is uncalled for. Consequently, the rent-a-cab service and outdoor catering service having been permitted to be availed on tax exemption, refund of tax paid thereon is to be allowed since exemption is undeniable except on false claims. But that is not the case in the present appeal.*
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> *4. In the result, all the three appeals are partly allowed to the extent indicated above."*

***6**. In the circumstances, I do not find any reason to deviate from the ratio of the aforesaid decisions. Hence, following the same, I hold that the appellant is very much eligible for grant of refund in respect of services availed by them and consumed fully within the SEZ provided that said services are authorized by competent authority and they are not in dissonance with rule 2(l) of the CCR. In the instant case, there is no allegation that input services provided in relation to outdoor catering or rent-a-cab services are used primarily for personal use or consumption of any employee from the facts on record. They are provided by appellant to their employees which are in the nature of welfare activity. They are therefore are very much within the ambit of rule 2(l) of CCR 2004 for the purpose of eligible input services. No other disentitling factors are found* *in these cases. Hence all the appeals, in respect of services consumed wholly within the SEZ by appellant in respect of rent-a-cab services and outdoor catering services are allowed, with consequential benefit, if any, as per law."*

13. In view of the similarity of facts and law between the above case of Nokia India Private Ltd. Versus Commissioner of Service Tax, Chennai [Final Order Nos. 42340-42342/2016 dated 25.11.2016 (CESTAT, Chennai)] and the present case, the issues (i) and (ii) are no longer res integra. Hence the impugned order upholding rejection of refund claims amounting to (i) Rs. 44,45,035/- in respect of "Rent-a-cab Operator Services", "Outdoor Caterer's Services", "Customs House Agent Services used for clearance of goods to Domestic Tariff Area" and "Services used for DTA clearance"; and (ii) Rs. 1,70,998/- in respect of "Security Agency Services" is set aside.

14. There is no substance in the claim of the Appellant that they are the service recipient in respect of Services for which invoices were not raised on the Appellant. Therefore, rejection of refund claim of Rs. 4,220/- in respect of Services for which invoices were raised on Gurgaon unit of the Appellant is in order.

15. In view of the above findings, the appeals are partly allowed as above and the impugned Order-in-Appeal Nos. 50-54/2015 (STA-I) dated 19.02.2015 is modified to allow all the five refund claims of the appellant fully, except the refund claim of Rs.4,220/- for which invoices were not raised on the Appellant’s unit located at SIPCOT, Sriperumbudur but raised on Gurgaon unit of the Appellant.

(Order pronounced in open court on 21.01.2026)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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