CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. I

Service Tax Appeal No. 41724 of 2016

(Arising out of Order in Appeal No.302/2016, dated 25.05.2016 passed by the Commissioner of Service Tax, Newry Towers, 2054/1, II Avenue, 12th Main Road, Chennai 600 040)

M/s. AGS Health Pvt. Ltd. **.... Appellant**
No.4, Canal Bank Road
Chennai 600 113

VERSUS

Commissioner of GST and Central Excise **...Respondent**
Plot No.2054, I Block
12th Main Road, Anna Nagar
Chennai 600 040

APPEARANCE:

Ms. Radhika Chandrasekar, Advocate for the Appellant
Mr. M. Selvakumar, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. AJAYAN T.V, MEMBER (JUDICIAL)

FINAL ORDER No.40343/2026

DATE OF HEARING: 05.02.2026
DATE OF DECISION:10.03.2026

Per Ajayan T.V.

AGS Health Pvt. Ltd., the Appellant herein, is aggrieved by the Order in Appeal No.302/2016 dated 25.07.2016 to the extent the Appellate Authority has upheld the Order in Original No.21/2014 (R) dated 23.05.2014 denying the refund of unutilized cenvat credit taken on input services.

2. Brief facts are that the Appellant is a 100% EOU registered with the department under the category Business Auxiliary Services and Business Support Services. The Appellant had filed a refund claim under Rule 5 of the Cenvat Credit Rules, 2004 (CCR) seeking refund of the unutilized input service tax credit taken towards rendering its output services during the period April 2012 to June 2012. After due process of law, the Adjudicating Authority (Refund Sanctioning

Authority) vide the aforesaid Order in Original dated 23.05.2014 sanctioned the refund claim partially, while rejecting the balance amount on the ground that certain input services on which credit was taken are not services that were consumed for providing output services. It was therefore held that these services received by the Appellant cannot be considered as input services under Rule (2) (l) of the CCR and hence the credits being ineligible, the refund of the same cannot be allowed. Yet another ground for rejection of another portion of the refund claim was that it was hit by limitation. Being aggrieved by the partial rejection the Appellant preferred an appeal before the Commissioner (Appeals – I), Chennai who has, vide the impugned order allowed the Appellant's plea against portion of the claim rejected as barred by limitation, but however, upheld the rejection of the credit taken on the impugned services finding that no nexus has been established between the said services and the output services of the Appellant, and hence the same does not qualify for refund.

3. Ms. Radhika Chandrasekar, Ld. Advocate appearing for the Appellant submitted that the refund has been denied with respect to input services such as Rent a Cab Service (Rs.1,07,211/-), Insurance Services (Rs.3,03,597/-), Air Travel Agent Service (Rs.1,840/-), Supply of Tangible Goods Service (Rs.1,205/-), Event Management Services (Rs.94,920/-), Outdoor Catering Services (Rs.55,023/-) and Parking Charges (Rs.2,817/-) on the ground that the same are not used for providing output service.

4. Ld. Counsel argues that the Refund Sanctioning Authority has merely stated that the appellant is not eligible for the input services since the same are not used for providing output service, without furnishing any reasons as to how such a determination has been made. It is submitted that even the Appellate Authority has after reproducing the erstwhile provisions of Section 2(l) of the CCR, denied the refund on the ground that only those services that are used directly for providing the taxable services qualify as input services under Rule 2(1), which is not correct. It is contended that input services availed were used for providing the output service and the input service

credit is available even post 01.04.2011 as long as the same is not utilised for the personal consumption of the employee. Ld. Counsel provided a tabulation of the input service on which the credit was availed and explaining the purpose for which it was availed and the decisions relied upon, as under:

Input Service	**Purpose**
Insurance Service	The insurance services are procured for the Company as well as for the employees. As long the same does not fall within the exclusion of definition of Rule 2 (1) of Cenvat Credit Rules the Appellant is eligible for credit. Reliance is placed on the decision of the Tribunal in the case of ***Hindustan Petroleum Corporation Ltd. Vs. Commissioner of Central Excise (2025) 35 Centax 183.***
Rent a cab Services	The said services are utilized for pick up and drop of employees to the work place. Appellant being a service industry and employees being a key source it is the obligation of the Appellant to provide pick up and drop facilities to the employees. The Appellant relies upon the decision in the case of ***Commissioner of CGST, Mumbai Vs. Sony Pictures Networks India Pvt. Ltd. (2024) 20 Centax 473*** wherein it has been held that when there is no material to show on record that the services were utilized for personal consumption credit availed from rent a cab services cannot be denied for the period post 01.07.2012
Outdoor catering service	The services are procured for the employees in the course of providing the service. Reliance is placed on the decision in the case of ***Commissioner of CGST, Mumbai Vs. Sony Pictures Networks India Pvt. Ltd. (2024) 20 Centax 473***
Event Management Service	These services were availed in relation to conducting events. These events are mainly conducted to recognize the best performance, for future development and to keep the employees motivated. Reliance is placed on the

	decision in the case of ***DBOI Global Services P Ltd. Vs. Commissioner of CGST, Mumbai East, Final Order No. A/85461/2020 department.04.03.2020***.
Air Travel Services	These services were availed towards employees' travel for business related activities. As the Appellant caters to US clients senior management officials travel to meet the clients and to produce orders. Therefore it is an eligible credit.
Parking Charges	The charges are paid by the Appellant for utilizing the parking space for the vehicles of the company. Therefore it is an eligible credit.
Supply of Tangible Goods Services	The same is used for providing the output service therefore an eligible credit. These are chair hiring charges of chairs which is in relation the events conducted by the Company.

5. Shri M. Selvakumar, Ld. Authorised Representative reiterated the findings of the Ld. Appellate Authority.

6. Heard both sides. Perused the appeal records and the decisions submitted as relied upon.

7. It is seen that the Ld. Counsel is right in her submissions that the refund sanctioning authority has denied the refund by a mere ipse dixit that the appellant is not eligible for the input services since the same are not used for providing output service, without more. The order is devoid of any reasons as to what is the basis for such a finding. In the impugned order, the contentions of the Appellant as to the manner in which the said services have been utilized is sought to be rejected on the finding that the input service should be directly used for providing output service and that the Appellant has not provided any documentary evidence to prove the nexus between the services provided by (sic) them and their output service.

8. Indisputably the fact are that the Appellant is a 100% EOU and is seeking refund of the cenvat credit taken which has remained

unutilised. There is nothing on record to show that the Department had disputed the cenvat credit when it was taken by the Appellant. It is seen that in ***CST Delhi v Convergys India Pvt Ltd***, ***2009 (16) STR 198,*** in a case where the appellant therein was stated to be only into export of services and had claimed rebate of input services used for rendering export of services, a Division Bench of this Tribunal, after inter-alia examining Rule 5 of the Cenvat Credit Rules 2004, has held that "*there can not be two different yardsticks, one for permitting credit and the other for eligibility for granting rebate. Whatever credit has been permitted to be taken, the same are permitted to be utilized and when the same is not possible there is provision for grant of refund or as rebate. Without questioning the credit taken, the eligibility to rebate can not be questioned.*" The said decision is seen affirmed by the Honourable Punjab and Haryana High Court in ***CST v. Convergys India Pvt Ltd, 2010 (20) STR 166 (P &H)***. Services by its very nature being intangible, it is all the more reason that proper rationale be stated when the Department is seeking to denying the benefit at the stage of considering the Appellant's refund claim, without having objected to the credit when it was taken in the first place. It was incumbent on the authorities below to have referred to the correct applicable statutory provisions for the relevant period and to have elaborated on the reasons for their findings that the appellant had not availed the credit for providing output services.

9. Under these circumstances, considering the justification given above by the Appellant detailing the input service on which the credit was availed and explaining the purpose for which it was availed, and upon perusing the decisions submitted in support of the appellant's contention, which are apposite and seen to be that of a Division Bench of this Tribunal, Hon'ble Bombay High Court and a coordinate bench of this Tribunal respectively, this Tribunal is bound by judicial discipline to follow the same. As regards the credit taken by the Appellant on the Air Travel Services, Parking Charges, and Supply of Tangible Goods, this Tribunal is of the view that in the absence of any evidence that the said services have been availed primarily for personal use or the consumption of the employees, or that they form

part of the CTC of the employees, and considering that the justification stated by the Appellant being not implausible, the Appellant is entitled to the credit taken in the peculiar facts and circumstances of this case.

10. In light of the aforesaid discussions, the impugned order cannot sustain and is liable to be set aside. Ordered accordingly.

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

(Order pronounced in open court on 10.03.2026)

(AJAYAN T.V.)
Member (Judicial)

ra