

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.41002 of 2017

(Arising out of Order in Appeal No.701/2016 (STA-I) dated 28.12.2016 passed by the Commissioner of Service Tax (Appeals – I), Newry Towers, 3rd Floor, Plot No.2054, I Block, II Avenue, Anna Nagar, Chennai)

M/s. SMTT Holidays

AP 1195, 76th Street
12th Sector, k.k.Nagar
Chennai 600 078

...Appellant

Versus

Commissioner of GST & Central Excise

Newry Towers
No.2054 – I, II Avenue
Anna Nagar, Chennai 600 040

...Respondent

APPEARANCE :

Shri A. Dhamodharan, Advocate for the Appellant
Shri M. Selvakumar, Authorised Representative for the Respondent

CORAM :

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V. MEMBER (JUDICIAL)

FINAL ORDER No.40585/2026

DATE OF HEARING : 03.03.2026
DATE OF DECISION: 08.05.2026

Per AJAYAN T.V.

SMTT Holidays, the Appellant herein, has preferred this appeal against the Order in Appeal No.701/2016 dated 28.12.2016 passed by the Appellate authority (impugned order), whereby the Appellate Authority has upheld the Order in Original No.10/2013 dated 22.01.2013 of the Adjudicating Authority.

2. The relevant facts are that the Appellant is registered with the Department as a provider of Tour Operator services. During Audit, it was noticed that the Appellant has not paid service tax on the hire charges collected for providing cars for transportation of staff to M/s. Computer Science Corporation of India (P) Ltd, located in MEPZ-SEZ. Therefore, a Show Cause Notice dated 20.06.2012 was issued invoking extended period demanding service tax along with appropriate interest for the period May 2008 to April 2011. After due process of law, the Adjudicating Authority confirmed the demand as proposed in the SCN along with applicable interest, imposed equivalent penalty under Section 78 of the Finance Act, 1994 (Act) and also a penalty of Rs.10,000/- under Section 77 of the Act. Aggrieved, the Appellant preferred an appeal before the Commissioner of Service Tax (Appeals-I), Chennai, who has vide the impugned order rejected the Appeal. Hence this Appeal.
3. Shri A. Dhamodharan, Ld. Advocate appearing on behalf of the Appellant contended that the entire demand is founded on an erroneous interpretation of Notification No.04/2004-ST dated 31.03.2004 by the Department, which proceeds on the incorrect assumption that the services must be physically rendered and consumed wholly within the geographical boundaries of the SEZ in order to qualify for the exemption. It was further contended that SEZ Act, 2005 is a special legislation enacted with the object of promoting exports and in view of the overriding clause contained in Section 51 of the SEZ Act, the provisions of the SEZ Act must prevail over the Finance Act. Further, Section 26(1)(e) of the SEZ Act grants a substantive and statutory exemption from service tax on all taxable services provided to a Developer or a Unit for carrying on authorised operations in an SEZ and such exemption is not conditional upon the place where the services are rendered. Furthermore, the employee transportation services provided by the Appellant is intrinsically connected with the authorised operations of the service recipient SEZ unit as movement of employees is essential for carrying on the business activities of the service recipient within the SEZ. It is also submitted that invoking the extended period of

limitation is wholly unjustified and the penalties are not attracted as it is an interpretational dispute and the Appellant had acted on bonafide belief premised on judicial precedents. Reliance is placed on the decision in ***GMR Aerospace Engineering Ltd v UOI, 2019 (31) GSTL 596 (AP), Eclerx Services Ltd v CCE, 2023 (72) GSTL 91 (Tri-Mumbai) and Final Order No.41428/2025 dated 05.12.2025 in Service Tax Appeal No.42331 of 2016 in the case of PRR Travels v Commissioner of GST & Central Excise, Chennai.*** He prays that the appeals may be allowed.

4. Shri. M. Selvakumar, Ld. Authorised Representative appearing for the Respondent reiterated the findings of the Appellate Authority in the impugned order.
5. We have heard both sides and perused the material available on the record.
6. The only issue that arises for determination in the present appeal is whether the service of providing cars on hire by the Appellant to the unit situated in SEZ is exigible to service tax.
7. We find that the very same issue has been addressed by a coordinate Bench of this Tribunal, ***in Final Order No.41428/2025 dated 05.12.2025 in Service Tax Appeal No.42331 of 2016 in the case of PRR Travels v Commissioner of GST & Central Excise, Chennai,*** wherein the issue was decided in favour of the Appellant therein. The relevant portions are as under:

“5. The SEZ Act is a special statute meant to promote exports and to attract foreign and domestic investment for export promotion, by providing an attractive fiscal package, with the minimum possible regulations. In furtherance of this policy Section 51 of the SEZ Act provides for an overriding effect to the provisions of the SEZ Act over anything inconsistent contained in any other law for the time being in force, which would include the Finance Act. It reads as follows:

Section 51. Act to have overriding effect.

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith. contained in any other law for the time being in

force or in any instrument having effect by virtue of any law other than this Act.

Section 26(1) (e) states that subject to the provisions of sub-Section 2 thereof, every developer and entrepreneur shall be entitled to exemption from service tax under Chapter (V) of the Act on taxable services provided to a developer or unit to carry on the authorised operations in a SEZ.

26. (1) Subject to the provisions of sub-section (2), every Developer and the entrepreneur shall be entitled to the following exemptions, drawbacks and concessions, namely:—

(a)

. . . .

(e) exemption from service tax under Chapter V of the Finance Act, 1994 (32 of 1994) on taxable services provided to a Developer or Unit to carry on the authorised operations in a Special Economic Zone;

(2) The Central Government may prescribe the manner in which, and the terms and conditions subject to which, the exemptions, concessions, drawback or other benefits shall be granted to the Developer or entrepreneur under sub- section (1).

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7. We find that the SEZ Act is a self-contained Act which provides exemptions on taxes, duties, cess, drawbacks and concessions on imports and exports of the goods and on supply of services to the Developers and Units within a SEZ for carrying on authorised operations. Therefore, in terms of section's 51 and 26 of the SEZ Act, no notification is required to be issued under Section 93 of the Finance Act, 1994 in this regard.

8. As for the services provided to the Developer or Unit partially outside the SEZ, Section 26(1) (e) of the SEZ Act states that every Developer or Unit shall be entitled to exemption from Service Tax on taxable services provided to carry on the authorised operations in a SEZ. Hence the situs of rendering services is not relevant in connection with carrying on the authorised operations, so long as the taxable services are provided to a Developer or Unit in a SEZ. Therefor the said taxable services would be exempt from the whole of the service tax leviable thereon under section 66 of the said Finance Act as per the provisions of the SEZ Act and Rules framed there under.

9. It would be relevant to state that as per the Apex Court's judgment in Peekay Re-Rolling Mills Pvt. Ltd. Vs Assistant Commissioner [2007

(219) E.L.T. 3 (S.C.)], exemption does not negate a levy of tax altogether. Despite an exemption, the liability to tax remains unaffected, only the subsequent requirement of payment of tax to fulfil the liability is done away with.

10. As regards the Ld. A.R.s submission that the pre-approved "authorised list of services" in the case of Rent-a-cab Services was included in November 2013 only, i.e. after the disputed period, it seen that there is no allegation in the SCN that the Rent-a-cab Services provided by the appellant to the SEZ Unit was not to carry on the authorised operation. Hence the issue is beyond the scope of the SCN.

11. Based on the discussions above the appellant is eligible for exemption from service tax for rent-a-car services provided to SEZ units as per the overriding effect under Section 51 of the SEZ Act on any other law for anything inconsistent therewith and exemption provided by Section 26 of the SEZ Act. Hence the impugned order merits to be set aside and is so ordered. The appellant is eligible for consequential relief as per law. The appeal is disposed of accordingly."

8. We find no reason to take a different view. Therefore, in adherence to judicial discipline, following the said decision, we hold the impugned order cannot be sustained and is liable to be set aside. Ordered accordingly.

Resultantly, the appeal is allowed with consequential relief (s) if any.

(Order pronounced in the open court on 08.05.2026)

(AJAYAN T.V.)
Member (Judicial)

(VASA SESHAGIRI RAO)
Member (Technical)