CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. I

Service tax Appeal No.42236 of 2015

(Arising out of Order-in-Appeal No.168/2015 (STA-II) dated 04.08.2015 passed by Commissioner of Service tax (Appeals-II), Chennai)

M/s. TVS Capital Funds Ltd. .... **Appellant**
No.29, Haddows Road,
Jayalakshmi Estates,
Nungambakkam,
Chennai-600 034.

VERSUS

Commissioner of GST & Central Excise ... **Respondent**
Chennai North Commissionerate
29/1, Mahatma Gandhi Road
Nungambakkam, Chennai – 600 034.

APPEARANCE :

Ms. Radhika Chandrasekhar, Advocate for the Appellant
Mr. M. Selvakumar, 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.40661/2026

DATE OF HEARING : 02.02.2026
DATE OF DECISION :29.05.2026

Per: Shri Ajayan T.V.

TVS Capital Funds Ltd., the appellant herein, has assailed the Order-in-Appeal No.168/2015 (STA-II) dated 04.08.2015 (impugned order) where by the Appellate Authority has upheld the Order-in-Original No.31/2012 dated 03.07.2012 passed by the Adjudicating Authority.

2. The brief facts are that the appellant is engaged in providing Fund management service and is registered with a service tax Department. During the course of verification by internal audit, it was noticed that the appellant had received sponsorship services on which the appellant had not discharged the service tax liability and that the appellant had availed ineligible input services credit on coffee machine charge, club fees, employee insurance etc.

The Department issued a Show Cause Notice No. 25/2011 dated 01.08.2011 invoking extended period of limitation, without indicating the period of demand, and proposing to demand Service tax on sponsorship services along with interest and penalties, and also proposing to deny the alleged ineligible cenvat credit. After due process of law, the Adjudicating Authority vide impugned order confirmed the demands while appropriating an amount of Rs.1,80,351/- towards the demand of sponsorship services along with appropriation of the amount of Rs.42,228/- paid as interest thereon. A penalty of Rs.4,40,862/- under Section 78 of the Act was also imposed on the appellant. Aggrieved, the appellant preferred an appeal before the Commissioner of Service tax (Appeals-II), who however, vide the impugned order rejected the appeal. Hence this appeal.

3. Ms. Radhika Chandrasekhar, Ld. Advocate appearing for the appellant contended that the appellant had admittedly produced all the invoices pertaining the sponsorship services where the service providers have charged the appellant for the service along with Service tax, however the Appellate Authority has confirmed the demand on the ground that no document has been furnished to correlate the payment of service tax by the service provider. In fact, the appellant had also produced a letter from service provider stating the details of service tax collected from the appellant and the payment having been made to the government. The Ld. Counsel contended that the entire tax due having already reached the Exchequer so tax cannot be demanded on the same service twice, irrespective of the fact whether it has been paid by the service provider or by the service receiver. It is submitted that the issue is no more res-integra. In this regard the appellant relies on the decisions in ***Zyeta Interiors Pvt. Ltd. Vs. The Vice Chairman Settlement Commissioner (2021) 10 TMI 233, The Vice Chairman Settlement Commissioner vs. Zyeta Interiors Pvt. Ltd. (2022) 4 TMI 774*** and ***Shree Saibaba Chemicals Industries vs. Commissioner of Central Excise & Service tax (2025) 28 Centax 158 (Tri.-Ahmd)***. As regards the Cenvat Credit taken the Ld. Counsel contended that the Hon'ble High Court in the case of ***CCE vs Ultratech Cement Ltd. (2010) TIOL 745*** has held that the services having nexus or integral connection with the activity of business of the appellant is eligible for credit and hence the Cenvat Credit taken is tenable. Reliance is placed on the decisions in ***Tata Teleservices (Maharashtra) Ltd. Vs CST (2024)***

16 Centax 160 (Tri.LB) and ***Imagination Technologies India (P) Ltd. Vs CCE (2011) 23 STR 661 (Tri.-Mumbai)***.

4. It is also contended by the Ld. Counsel that the appellant regularly files returns and upon being pointed out by the audit, the appellant had immediately paid Service tax pertaining to invoices for sponsorship service where the Service tax was not collected by the service provider and was not reflected in the invoice and therefore the Department ought to have excluded the Service tax discharged by the appellant before issuance of the Show Cause Notice. It was submitted that with respect to the confirmation of service tax demand on sponsorship service to the extent it has been paid by the appellant and stood appropriated along with the interest paid, the appellant had no quarrel. However, the SCN was issued demanding Service tax for all invoices pertaining to sponsorship service. It is also contended that none of the ingredients required for invoking extended period in terms of the proviso to section 73(1) such as fraud, collusion, wilful misstatement, suppression of facts, contravention of any of the provisions of this chapter or of the Rules made therein with intent to evade payment of Service tax was present in this case. Both the issues are with respect to interpretation and therefore extended period of limitation is not invokable. Reliance was also placed on the decisions in ***Mahatma Gandhi University of Medical Sciences & Technology v CCE, 2021 (55) GSTL 26 (Tri-Del)*** and ***Aban offshore Ltd v. Commissioner of GST & CE, (2020) 9 TMI 937*** in support of the appellant’s contentions.

5. Mr. M Selvakumar, Ld. Authorised Representative appearing for the Respondent, reiterated the findings of the Appellate Authority in the impugned order.

6. Heard both sides and perused the relevant material on record and the case laws submitted.

7. The issues that arise for determination are whether the appellant is liable to pay service tax on sponsorship services in respect of which the service tax has already been discharged by the service provider and whether the cenvat credit availed on input services are tenable.

8. Admittedly, the appellant has no serious contest with respect to the confirmation of service tax demand on sponsorship service to the extent it has been paid by the appellant and stood appropriated along with the interest paid thereon. These are payments which have been made before issuance of the SCN as can been from their averments in the reply to the SCN filed by the appellant annexed to the Appeal, indicating that they had paid Rs.1,80,351/- along with interest of Rs.42,228/- thereon vide challan No.CK07313832 dated 28th February 2011, enclosed as Annexure 6 to their reply. It is the balance amount of service tax demand of sponsorship services confirmed along with demand of credit taken on cenvat credit as well as the penalty imposed, against which the appellant nurses a serious grievance.

9. It is the appellant's contention that the said amount of service tax has been paid by the service providers given that the said service providers have raised invoices on them mentioning the service tax amount in the invoices. The copies of the invoices alongwith worksheet showing the name of the service provider invoice number and the amount of service tax paid by them to the Government is stated to be the enclosure at Annexure 4 of their reply. The appellant has also filed the letter from Mosaic Media Ventures Pvt Ltd stating that they have deposited the service tax for the invoices mentioned therein, duly providing their service tax number. The impugned order reflects that the Appellate Authority though finding force in their arguments that it would amount to double taxation if the appellant is asked to pay service tax in respect of the services on which the service tax has already been paid by the service provider, has nevertheless found the documents furnished insufficient to corelate the payment of service tax by the service provider towards the demand for the subject period. When we notice that the SCN issued itself, as contended by the appellant is sans any details of the demand of sponsorship service worked out, including the period of demand, when the appellant has been forthcoming enough to have readily discharged their service tax dues upon being pointed out before the issuance of SCN and has also having produced the documents and invoices as stated above in support of their contentions of the service provider having collected the service tax from them, we find no reason to disbelieve the averments. Moreso, when it is not disputed that the appellant has not paid the amounts including service tax to such service providers towards the invoices raised on

the appellant, and further in as much as the authorities below have not indicated as to what exactly are the further evidences or documents that they require to be produced to their satisfaction. Hence, in these circumstances, we are of the considered opinion that the balance demand of service tax on sponsorship services that has been made on the appellant cannot be sustained and is liable to be set aside. The decisions in ***Zyeta Interiors Pvt. Ltd. Vs. The Vice Chairman Settlement Commissioner (2021) 10 TMI 233, The Vice Chairman Settlement Commissioner vs. Zyeta Interiors Pvt. Ltd. (2022) 4 TMI 774*** and ***Shree Saibaba Chemicals Industries vs. Commissioner of Central Excise & Service tax (2025) 28 Centax 158 (Tri.-Ahmd)*** relied on by the appellant are found to be apposite in the aforesaid context.

10. As regards the denial of cenvat credit on the aforementioned input services, we notice that the period involved is prior to 01.04.2011, when the definition of input services, in the inclusive portion, included the phrase "activities relating to business, such as", which have been consistently interpreted in an expansive manner by various High Courts and Tribunals, to take within its ambit all services used in relation to the business of the assessee. The allegation in the SCN is also bereft of an details as to how and why exactly the input services on which credit was taken were found to be ineligible. The reliance placed on the decision in ***CCE vs Ultratech Cement Ltd. (2010) TIOL 745***, as well as for specific input services in the instant case, such as on the decisions in ***Tata Teleservices (Maharashtra) Ltd. Vs CST (2024) 16 Centax 160 (Tri.LB) for*** credit taken on employee insurance***, Imagination Technologies India (P) Ltd. Vs CCE (2011) 23 STR 661 (Tri.-Mumbai)*** for credit taken on coffee machine, ***Aban offshore Ltd v. Commissioner of GST & CE, (2020) 9 TMI 937*** for club fees (room rent), are found to be in favour of the appellant and therefore, respectfully following the same, we are of the firm opinion that the impugned order upholding the demand of cenvat credit cannot be sustained and is liable to be set aside.

11. We also find that that the SCN itself does not ascribe any wilful or malafide intent to the appellant. The demand is based on details reflected in the appellant's records. In so far as the amount of service tax on sponsorship service that had been paid up by the appellant before the issuance of SCN,

the reason provided, namely, that the divergence of practice adopted by the actual service providers, some of whom had also invoiced them for the said services stating the service tax due thereon, leading to a bonafide belief that they were not liable, is not implausible. In any event, the liability to that extent had been discharged with interest even prior to issuance of SCN and as per the provisions of Section 73(3) prevailing then, no notice on the amount so paid ought to have been issued. It is a settled position in law that something positive other than mere inaction or failure on the part of the service provider or conscious or deliberate withholding of information when the service provider knew otherwise, is required before it is saddled with any liability. The ingredients required to invoke the extended period of limitation postulate a positive act and, therefore, mere failure to pay duty which is not due to any fraud, collusion or wilful misstatement or suppression of fact or contravention of any provision is not sufficient to attract the extended period of limitation. In the absence of any deliberate act on the part of the appellant with an intention to evade being established by the revenue, the essential precondition of wilful suppression with intent to evade tax is not satisfied. The decisions in, ***Uniworth Textiles v CCE, Raipur, 2013 (288) ELT 161 (SC)***, ***CCE v Northern Operating Systems, 2022 (61) GSTL 129 (SC)*** and ***Lipi Boilers v The Commissioner of C.Ex, Aurangabad, 2025 INSC 1297*** refer in this regard. We are therefore of the opinion, that Department ought not to have invoked the extended period of limitation. In these circumstances, for the aforesaid reasons, and in the absence of any contumacious conduct on the part of the appellant, this is a fit case to invoke Section 80 as was prevailing for the relevant time, to set aside the penalty imposed on the appellant. We therefore modify the impugned order, and while upholding the confirmation of demand on sponsorship services to the extent of the amount paid along with interest without demur, and which stood appropriated, set aside the entire balance demand along with interest thereon as well as the penalty imposed under Section 78 of the Finance Act, 1994. The appeal is partly allowed in the above terms with consequential relief(s) in law, if any.

(Order pronounced in the open court on 29.05.2026)

(AJAYAN T.V.)
Member (Judicial)

(M. AJIT KUMAR)
Member (Technical)

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