CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>CHENNAI</u>

REGIONAL BENCH – COURT No. I

Service Tax Appeal No. 40138 of 2017

(Arising out of Order-in-Appeal No. 548/2016 (STA-I) dated 01.09.2016 passed by Commissioner of Service Tax (Appeals-I), Newry Towers, Plot No. 2054, I Block, II Avenue, Anna Nagar, Chennai – 600 040)

Commissioner of GST and Central Excise **...Appellant**
Chennai Outer Commissionerate,
Newry Towers, No. 2054-I,
2nd Avenue, 12th Main Road,
Anna Nagar,
Chennai – 600 040.

Versus

M/s. YCH Logistics (India) Private Limited **... Respondent**
Phase II, Plot No. DVI,
SIPCOT Hi-Tech SEZ,
Sirumangadu Village,
Sriperumbudur Taluk,
Kanchipuram – 602 105.

And

Service Tax Appeal No. 40911 of 2018
with
Service Miscellaneous Application No. 40181 of 2026

(Arising out of Order-in-Appeal No. 469/2017 (CTA-II) dated 29.12.2017 passed by Commissioner of GST and Central Excise (Appeals-II), Newry Towers, Plot No. 2054, I Block, II Avenue, Anna Nagar, Chennai – 600 040)

M/s. YCH Logistics India Private Limited **...Appellant**
Plot No. D VI, Phase II,
SIPCOT Hi-Tech SEZ,
Sirumangadu Village,
Sriperumbudur Taluk,
Kanchipuram – 602 105.

Versus

Commissioner of GST and Central Excise **...Respondent**
Chennai Outer Commissionerate,
Newry Towers, No. 2054-I,
2nd Avenue, 12th Main Road,
Anna Nagar,
Chennai – 600 040.

<u>APPEARANCE:</u>

For the Assessee : Mr. Sivarajan, Consultant
Mr. Krishnakumar, Consultant
For the Revenue : Mr. M. Selvakumar, Authorised Representative

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

FINAL ORDER Nos. 41051-41052 / 2026

DATE OF HEARING : 16.06.2026
DATE OF DECISION : 24.09.2026

Per Mr. VASA SESHAGIRI RAO

The present appeals, namely Appeal No. C/40911/2018 filed by M/s YCH Logistics (India) Pvt. Ltd. (hereinafter referred to as "the appellant") and Appeal No. C/40138/2017 filed by the Commissioner of GST & Central Excise (hereinafter referred to as "the Revenue"), arise out of Order-in-Appeal No. 469/2017 (CTA-II) dated 29.12.2017 and Order-in-Appeal No. 548/2016 (STA-I) dated 01.09.2016, respectively. Since both appeals arise from the same refund proceedings and involve common facts and issues, they are heard together and disposed of by this common order.

2. The appellant is a registered service provider engaged in storage, clearing and forwarding and cargo handling services and is also an importer of services, including management and trademark fees, on which service tax was discharged under reverse charge. In respect of services received from outside India against invoices dated

May 2009, the appellant discharged service tax of Rs.55,91,185/- through Challan No.50297 dated 05.10.2009. The payment was inadvertently not reflected in the relevant ST-3 return and no CENVAT credit on this challan was taken until February 2011. During departmental audit for FY 2008-09 to 2010-11, non-payment of service tax on import of services was pointed out. While making payment relating to subsequent years, the appellant inadvertently paid the very same FY 2008-09 liability once again through Challan No.10014 dated 02.02.2011. The said challan comprised service tax of Rs.1,31,70,733/-, of which Rs.55,91,185/- represented the FY 2008-09 liability already paid in 2009, while Rs.75,79,548/- related to FY 2009-10. Interest of Rs.12,50,562/- relating to FY 2008-09 was paid through Challan No.10003 dated 14.02.2011. On discovery of the duplicate payment, the appellant filed a refund claim on 13.06.2011 for Rs.68,41,747/-, comprising Rs.55,91,185/- being the service tax paid for the second time through Challan No.10014 dated 02.02.2011 and Rs.12,50,562/- towards interest. The first adjudicating authority rejected the refund. The Commissioner (Appeals), by Order-in-Appeal No.548/2016 dated 01.09.2016, set aside the said order and allowed the refund. The Revenue filed Appeal No.C/40138/2017 against that order. Subsequently, the appellant's fresh refund proceedings culminated in Order-in-

Appeal No.469/2017 dated 29.12.2017 confirming rejection of the refund, giving rise to Appeal No.C/40911/2018.

3.1 The Ld. Chartered Accountants Shri Sivarajan, Shri Krishna, Smt. Usha appearing for the appellant submitted that the entire controversy arises from the inadvertent second payment of the very same FY 2008-09 service tax liability. The first payment of Rs.55,91,185/- was made on 05.10.2009, whereas the identical liability was again paid on 02.02.2011 during audit. The appellant contended that the documentary evidence, including the two challans, reconciliation, books of account, audited financial statements and Chartered Accountant's certificate, establishes the duplicate payment.

3.2 It was submitted that the authorities in the second round had themselves accepted the factual position that the amount had been paid twice. The appellant specifically relied upon the observations in OIO-2 and OIA-2 referring to the “duplicate payment” and the “second payment”. It was therefore contended that the surviving controversy was only whether the duplicate payment could be denied refund on the ground of unjust enrichment or on the basis of CENVAT credit allegedly relating to the second payment.

3.3 The appellant further submitted that the first payment of Rs.55,91,185/- alone gave rise to CENVAT credit and that the CENVAT credit of Rs.1,50,41,627/- availed in February 2011 did not include the duplicate portion of Challan No.10014. The reconciliation furnished by the appellant showed that the February 2011 credit comprised Rs.55,91,185/- relating to the October 2009 payment, Rs.18,70,893/- being regular input-service credit for February 2011 and Rs.75,79,548/- relating to the non-duplicate portion of Challan No.10014. It was therefore submitted that no CENVAT credit was ever availed on the duplicate payment.

3.4 It was also submitted that the disputed amount continued to be shown as recoverable from the Department in the books of account and was not adjusted against expenditure or passed on to any customer. The Statutory Auditor's certificate dated 31.01.2017 specifically recorded that the appellant had paid the service tax twice and had neither availed nor utilised the duplicate amount under Challan No.10014. The audited financial statements from FY 2011-12 to FY 2016-17 were relied upon to show that the amount continued to be reflected as a receivable from the Department.

3.5 On the issue of the ST-3 return and the alleged wrong accounting head/service category, the appellant relied upon CBEC Circular No.58/7/2003-ST dated 20.05.2003, as also M/s Aaryaa Construction Vs Commissioner of GST and Central Excise, 2025-VIL-1030-CESTAT-CHE-ST; M/s Chhattisgarh State Power Distribution Co. Ltd Vs CCE & ST, Raipur, 2017-VIL-391-CESTAT-DEL-ST; M/s Owens Corning (I) Ltd Vs Commissioner of S. Tax, Mumbai-II, 2019-VIL-559-CESTAT-MUM-ST; Arcadia Share & Stock Brokers Pvt. Ltd. Vs CCE & C, Goa, 2013-VIL-119-CESTAT-MUM-ST; and Devang Paper Mills Pvt. Ltd. Vs UOI, 2015-VIL-600-GUJ-CE. The submission was that once the tax liability had been discharged, a wrong accounting code, service category or non-reporting in ST-3 could not justify denial of refund or a second demand of the same tax.

3.6 On non-reporting in ST-3, reliance was placed on *M/s. Gail India Ltd Vs Commissioner Of GST & Central Excise, Puducherry, 2023-VIL-568-CESTAT-CHE-ST; Broadcom India Research Pvt. Ltd. Vs Commissioner Of S. Tax, 2016 (42) STR 79 (Tri. Bang.); Warburg Pincus India Pvt Ltd Vs Asstt. Commissioner, Mumbai South, 2023-VIL-299-CESTAT-MUM-ST; Jagdamba Polymers Ltd., 2010 (253) ELT 626 (Tri. Ahmd.);* and *Morning Star India Pvt. Ltd., 2017-TIOL-3942-CESTAT Del*. It was submitted that an ST-3 omission is, at best, a procedural lapse and cannot defeat a refund otherwise established from primary records.

3.7 In support of the contention regarding unjust enrichment and the CENVAT credit reconciliation, reliance was placed on ITC Ltd Vs C.GST&CE, Coimbatore, 2025-VIL-1030-CESTAT-CHE-ST and CCT, Hyderabad GST Vs UPL Ltd., 2019-VIL-582-CESTAT-HYD-ST. The appellant also relied upon the principle under Rule 14 of the CENVAT Credit Rules, 2004 relating to the "first-in, first-out" basis of utilisation, contending that the credit availed in February 2011 necessarily related to the earlier October 2009 payment and not the duplicate payment.

4. *Per Contra*, the Ld. Authorized Representative Shri M. Selvakumar supported the impugned orders. It was submitted that the appellant had not disclosed the original payment in the ST-3 return and had not established that the two challans related to one and the same taxable transaction. Revenue also relied upon the alleged discrepancies between ST-3 returns and accrued tax, accounting treatment, CENVAT credit and the requirements of Section 11B, including unjust enrichment.

5. Upon consideration of the rival submissions, the records, the impugned Order-in-Original, both Orders-in-Appeal, the synopsis, written submissions, additional submissions, miscellaneous application, statement of facts, grounds of appeal, annexures and the judicial precedents relied upon by both sides, the following question arises for determination: -

i. Whether the appellant is entitled to refund of Rs.55,91,185/-, being the service tax paid for the second time on 02.02.2011 in respect of the FY 2008-09 liability already discharged on 05.10.2009, under Section 11B of the Central Excise Act, 1944?

ii. Whether the appellant is entitled to consequential interest on the admissible refund under Section 11BB of the Central Excise Act, 1944?

6. We now proceed to examine the question framed for determination.

Issue No. (i): Whether the appellant is entitled to refund of Rs.55,91,185/-, being the service tax paid for the second time on 02.02.2011 in respect of the FY 2008-09 liability already discharged on 05.10.2009, under Section 11B of the Central Excise Act, 1944?

7. We find that the factual foundation of the dispute is no longer in serious controversy. The first payment of

Rs.55,91,185/- was made through Challan No.50297 dated 05.10.2009. The same amount was again included in Challan No.10014 dated 02.02.2011. The appellant's case is not that the second payment discharged another liability; it is that the very same FY 2008-09 liability was inadvertently paid again during the audit. Significantly, OIO-2 and OIA-2 themselves refer to the payment as the "duplicate payment" and the "second payment". The appellant's additional submissions have specifically drawn our attention to these findings.

8. The Revenue has not produced any material establishing that the payment of Rs.55,91,185/- made on 05.10.2009 was adjusted, refunded or appropriated towards any liability other than the FY 2008-09 service tax liability. Nor has any independent taxable liability for the same amount arising in February 2011 been established. The subsequent payment therefore cannot be treated as tax legally due merely because the earlier payment was inadvertently omitted from the ST-3 return.

9. We also find the appellant's CENVAT reconciliation persuasive. The appellant has explained that the CENVAT credit availed in February 2011 comprised Rs.55,91,185/- relating to the October 2009 payment,

Rs.18,70,893/- towards regular input-service credit for February 2011 and Rs.75,79,548/- being the non-duplicate portion of Challan No.10014. The appellant has consistently maintained that the duplicate portion was not taken as credit and continued to be shown as receivable. The Statutory Auditor's certificate records that the appellant had paid the service tax twice and had not availed or utilised the duplicate amount.

10. We find no basis to reject this documentary evidence merely because the original payment was not reflected in the ST-3 return. The omission in the return does not extinguish the legal effect of an actual payment into the Government account. In *M/s Gail India Ltd Vs Commissioner Of GST & Central Excise, Puducherry, 2023-VIL-568-CESTAT-CHE-ST,* the Tribunal recognised that the statutory return cannot be treated as conclusive where the correct factual position is established from independent documentary evidence. The same principle is reflected in *Broadcom India Research Pvt. Ltd. Vs Commissioner Of S. Tax, 2016 (42) STR 79 (Tri. Bang.), Warburg Pincus India Pvt Ltd Vs Asstt. Commissioner, Mumbai South, 2023-VIL-299-CESTAT-MUM-ST, Jagdamba Polymers Ltd., 2010 (253) ELT 626 (Tri. Ahmd.)* and *Morning Star India Pvt. Ltd., 2017-TIOL-3942-CESTAT Del,* relied upon by the appellant.

11. The objection regarding wrong accounting head or service category also cannot sustain the rejection of the refund. CBEC Circular No.58/7/2003-ST dated 20.05.2003 specifically deals with payment of service tax under a wrong accounting code and clarifies that an assessee should not be required to pay the service tax again. The principle is also supported by *M/s Aaryaa Construction Vs Commissioner of GST and Central Excise, 2025-VIL-1030-CESTAT-CHE-ST; M/s Chhattisgarh State Power Distribution Co. Ltd Vs CCE & ST, Raipur, 2017-VIL-391-CESTAT-DEL-ST; M/s Owens Corning (I) Ltd Vs Commissioner of S. Tax, Mumbai-II, 2019-VIL-559-CESTAT-MUM-ST; Arcadia Share & Stock Brokers Pvt. Ltd. Vs CCE & C, Goa, 2013-VIL-119-CESTAT-MUM-ST;* and *Devang Paper Mills Pvt. Ltd. Vs UOI, 2015-VIL-600-GUJ-CE.*

12. We next consider unjust enrichment. The appellant discharged the tax under reverse charge. The material placed on record shows that the duplicate amount was continuously reflected as recoverable from the Department and was not written off as expenditure or reduced through utilisation of credit. The Statutory Auditor's certificate dated 31.01.2017 and the audited financial statements for FY 2011-12 to FY 2016-17 support this position.

13. In CCT, *Hyderabad GST Vs UPL Ltd., 2019-VIL-582-CESTAT-HYD-ST,* reliance was placed on the examination of books of account and the Chartered Accountant's certificate in determining unjust enrichment. The appellant has also relied upon *ITC Ltd Vs C.GST&CE, Coimbatore, 2025-VIL-1030-CESTAT-CHE-ST,* concerning the evidentiary value of a certificate supported by reconciliation and accounts. In the present case, the Department has not brought on record any evidence showing that the duplicate payment was recovered from the customer or otherwise passed on. The documentary evidence, therefore, sufficiently discharges the appellant's burden in respect of unjust enrichment.

14. The appellant had also addressed correspondence dated 15.06.2012 and 18.07.2012 seeking permission to avail CENVAT credit on the subsequent payment. These communications are consistent with the appellant's stand that the duplicate payment was separately identifiable and had not been taken as credit. The appellant's case is further supported by its reconciliation and accounting records.

15. We are therefore satisfied, on the evidence available on record, that the service tax liability relating to FY 2008-09 was discharged on 05.10.2009 and that the identical amount of Rs.55,91,185/- was paid again on 02.02.2011 without any corresponding fresh taxable liability. The second payment was thus a duplicate payment. Retention of such amount by the Department would result in retention of tax not legally due.

16. The objection that the appellant did not report the first payment in ST-3 or did not immediately take credit on the first challan cannot convert the subsequent duplicate payment into a legally payable tax. Procedural omissions cannot defeat a substantive claim established by treasury challans, reconciliation, books of account, audited financial statements and the Chartered Accountant's certificate. We accordingly answer Issue No.(i) in favour of the appellant and hold that the appellant is entitled to refund of the duplicate service tax payment of Rs.55,91,185/- under Section 11B of the Central Excise Act, 1944.

Issue No. (ii): Whether the appellant is entitled to consequential interest on the admissible refund under Section 11BB of the Central Excise Act, 1944?

17. Once the refund of the duplicate payment is held admissible, the appellant's claim for consequential interest

has to be considered under Section 11BB of the Central Excise Act, 1944, as applicable to service tax by Section 83 of the Finance Act, 1994. The appellant has relied upon *Ranbaxy Laboratories Ltd. Vs Union of India, 2011 (273) E.L.T. 3 (S.C.)* and *Altisource Business Solutions Pvt. Ltd. Vs Deputy Commissioner of Central Tax, 2022-TIOL-1574-HC-KAR* in support of its claim that statutory interest follows where refund is not sanctioned within the prescribed period. The claim for interest is therefore allowed in accordance with Section 11BB and the law laid down in the aforesaid decisions.

18. For the reasons recorded above, we hold that the payment of Rs.55,91,185/- made through Challan No.10014 dated 02.02.2011 was a duplicate payment of the service tax liability already discharged through Challan No.50297 dated 05.10.2009. The rejection of refund is therefore unsustainable. The appellant has also established, through the contemporaneous documentary evidence, that the duplicate amount was neither utilised as CENVAT credit nor passed on to any customer. The refund is consequently admissible under Section 11B, together with consequential interest under Section 11BB in accordance with law.

19. Insofar as the Revenue's appeal is concerned, the very basis of the Revenue's challenge stands negatived by our finding that the payment was a duplicate payment and that the appellant was entitled to refund. The Revenue's appeal therefore has no merit.

20. In the result:

i. Appeal No. C/40911/2018 filed by M/s YCH Logistics (India) Pvt. Ltd. is allowed.
ii. Appeal No. C/40138/2017 filed by the Revenue is dismissed.
iii. Order-in-Appeal No. 469/2017 (CTA-II) dated 29.12.2017 rejecting the appellant's refund claim is set aside.
iv. The appellant is held entitled to refund of Rs.55,91,185/-, being the duplicate service tax payment made through Challan No.10014 dated 02.02.2011, along with consequential interest under Section 11BB of the Central Excise Act, 1944, in accordance with law.
v. Order-in-Appeal No. 548/2016 (STA-I) dated 01.09.2016, having allowed the appellant's refund claim, is upheld and the Revenue's challenge thereto is rejected.

21. Thus, both appeals are disposed of in the above terms.

(Order pronounced in open court on 24.09.2026)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

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

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