

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD**

REGIONAL BENCH - COURT NO. - I

Service Tax Appeal No. 30501 of 2016

(Arising out of **Order-in-Original** No.HYD-EXCUS-004-COM-085-15-16 dated 18.02.2016
passed by Commissioner of Customs, Central Excise & Service Tax, Hyderabad)

M/s Cyberabad Convention Centre Pvt Ltd., .. **APPELLANT**
Novotel & HICC Complex
(Near Hi-Tech City),
P.O.Bag 1101,
Cyberabad Post Office,
Telangana - 500 081.

VERSUS

Pr. Commissioner of Central Tax Rangareddy - GST .. **RESPONDENT**
H.No, 1-98-7-43,
Vip Hills, Jaihind Enclave,
Madhapur, Hyderabad,
Telangana - 500 081.

APPEARANCE:

Shri Y. Sreenivasa Reddy, Advocate for the Appellant.
Shri B. Sangameshwar Rao, Authorized Representative for the Respondent.

**CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)**

FINAL ORDER No. A/30474/2025

Date of Hearing: 12.11.2025
Date of Decision: 12.11.2025

[ORDER PER: A.K. JYOTISHI]

M/s Cyberabad Convention Centre Pvt Ltd., (hereinafter referred to as appellant) are in appeal against the Order of the Commissioner dated 18.02.2016, wherein the demand of Rs. 67,79,776/- has been confirmed along with imposition of penalty under Section 78. There are two issues involved. The first is whether they were eligible to utilize the Cenvat Credit for the payment of Service Tax on import of service amounting to Rs. 55,53,141/- during the period 2009-10 and secondly, whether there is any short payment of Service Tax on foreign payment amounting to Rs. 12,26,635/-.

2. The Learned Advocate submits that in so far as the first issue is concerned, the matter is no longer res-integra as in the identical case analyzing the identical provisions, the Co-ordinate Bench at Bangalore, in the case of Mphasis Ltd., Vs Pr. Commissioner of Service Tax, Bangalore-II

[2024 (6) TMI 168 – CESTAT, Bangalore] has decided the issue. He has also relied on the various judgments, including that of Mccann Erickson (India) Ltd., Vs Pr. Commissioner of GST & Central Excise, Delhi, East [2019 (30) GSTL 425 (Del)]. The Learned Advocate, in so far as the second issue is concerned, is submitting that there was no question of payment of Service Tax on the said amount, as the demand has been made based on difference between the figure reflected in the ST-3 and the Balance Sheet, as the said expenditures were clearly in relation to activities, not attracting Service Tax, per se, or were eligible for exemptions. He further submits that this aspect was argued before the Adjudicating Authority, who, however, has not examined the same and rejected on the grounds that no sufficient ground and evidence has been adduced for the exclusion of the said amount by the appellant.

3. Learned AR, reiterates the findings of the Commissioner and also submits that in any case, as far as second issue is concerned, the appellant have not been able to demonstrate that these expenses were otherwise not eligible to Service Tax.

4. The short question for determination is whether the appellants could have paid Service Tax on services provided by service providers located outside India, by utilizing the Cenvat Credit available with them or otherwise. In so far as liability to pay Service Tax under Reverse Charge Mechanism (RCM), nobody disputing that they were liable to pay Service Tax under RCM. Therefore, the only dispute is whether they could have utilized the credit available with them for discharge of said Service Tax liability for the period prior to 01.07.2012, when a specific provision was made for payment of such tax only through cash. We find that in the case of Mccann Erickson (India) Ltd., supra, the Hon'ble High Court has clearly held the issue in favour of the appellant by relying on various other judgments of other High Courts including that of Bombay High Court in the case of CCE Vs USV Ltd., [2019-VIL-334-BOM-ST]. We, further find that the Co-ordinate Bench at Bangalore has also held that the appellants were entitled to utilize the Cenvat Credit towards discharge of Service Tax under RCM when the Services have been received from foreign supplier. They have also relied on the judgment of another Co-ordinate Bench in the case of HDFC [2019 (6) TMI 74 CE-Mumbai]. The Co-ordinate Bench in the case of Mphasis Ltd.,, relying on the judgment of HDFC case, supra, and CCT, Bangalore, West Vs

Toyota Kirloskar Motors [2022-TIOL-30-HC-KAR-ST] set aside the demand against the appellant made on identical grounds.

5. Therefore, we find, in so far as the first issue is concerned following the ratio of judgments cited by the appellant, the demand to that extent cannot be sustained and accordingly to that extent the impugned order is set aside.

6. In so far as the second issue is concerned, we find that though in their defense, the appellant had submitted various documents in support that said expenditure cannot be covered within the ambit of Service Tax liability, the same has not been duly considered and examined by the Adjudicating Authority. Therefore, the findings to that extent of the Adjudicating Authority is set aside, and the matter is remanded back for the limited extent of examining this aspect, keeping in view various submissions and evidences submitted by the appellant. In so far the issue of limitation and imposition of penalty under Section 78 is concerned, the Adjudicating Authority will decide the matter, keeping in view the overall facts of the case including the grounds of Revenue neutrality raised by the appellant. However, it may be noted that we have not expressed any opinion on this issue.

7. Appeal allowed partly by way of remand.

(Dictated and pronounced in open court)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)