CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Miscellaneous Application No. 85623 of 2025
&
Service Tax Miscellaneous Application No. 85617 of 2025
In
Service Tax Appeal No. 87304 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

With

Service Tax Miscellaneous Application No. 85624 of 2025
In
Service Tax Appeal No. 87305 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

With

Service Tax Miscellaneous Application No. 85611 of 2025
&
Service Tax Miscellaneous Application No. 85625 of 2025
In
Service Tax Appeal No. 87306 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

With

Service Tax Miscellaneous Application No. 85626 of 2025
In
Service Tax Appeal No. 87307 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

With

Service Tax Miscellaneous Application No. 85612 of 2025
&
Service Tax Miscellaneous Application No. 85627 of 2025
In
Service Tax Appeal No. 87308 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

With

Service Tax Miscellaneous Application No. 85613 of 2025
&
Service Tax Miscellaneous Application No. 85628 of 2025
In
Service Tax Appeal No. 87309 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

With

Service Tax Miscellaneous Application No. 85614 of 2025
&
Service Tax Miscellaneous Application No. 85629 of 2025
In
Service Tax Appeal No. 87310 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

With

Service Tax Miscellaneous Application No. 85630 of 2025
In
Service Tax Appeal No. 87311 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

With

Service Tax Miscellaneous Application No. 85631 of 2025
In
Service Tax Appeal No. 87312 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

With

Service Tax Miscellaneous Application No. 85632 of 2025
In
Service Tax Appeal No. 87313 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

With

Service Tax Miscellaneous Application No. 85615 of 2025
&
Service Tax Miscellaneous Application No. 85633 of 2025
In
Service Tax Appeal No. 87314 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

With

Service Tax Miscellaneous Application No. 85616 of 2025
&
Service Tax Miscellaneous Application No. 85634 of 2025
In
Service Tax Appeal No. 87315 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

And

Service Tax Miscellaneous Application No. 85635 of 2025
In
Service Tax Appeal No. 87344 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-272 to 284-16-17 dated 05.07.2016 passed by the Principal Commissioner of Service Tax-II, Mumbai)

Capgemini Technology Services India Limited .... Appellant
Plot No.2, Block "C", Godrej IT Park,
Godrej and Boyce Compound, LBS Marg,
Vikhroli (West), Mumbai- 400 079.

Versus

Commissioner of Service Tax-II, Mumbai .... Respondent
4th Floor, New Central Excise Building,
Maharshi Karve Marg, Churchgate, Mumbai- 400 020.

APPEARANCE:

Shri Prakash Shah a/w Shri Mohit Rawal & Shri Ananta Khandait, Advocates for the Appellant

Shri Manish Mohan, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86122-86134/2025

Date of Hearing: 15.07.2025
Date of Decision: 15.07.2025

Per: S.K. MOHANTY

Heard both sides and examined the case records.

2. Appellants have filed these miscellaneous applications, praying for change of name and address of the respondent in the cause title and for consideration of the additional grounds urged now as a part of appeals filed by them. The applications filed with regard to change of name and address in the appeal memorandum is considered and

accordingly Registry is directed to incorporate the changed name and address of the respondent from "*Commissioner of Service Tax-II, Mumbai*" to "*Commissioner of Central Good Service Tax and Central Excise, Navi Mumbai, 16th Floor, Satra Plaza, Sector – 19D, Palm Beach Road, Vashi, Navi Mumbai – 400 705*." The other applications filed for consideration of additional grounds, are also considered. All the miscellaneous applications stand disposed of.

3. The issue involved in all these appeals relates to denial of refund claim filed by the appellants under Rule 5 of the CENVAT Credit Rules, 2004. Since, the issue involved in all these appeals is identical, the same are taken up for hearing together and a common order is being passed.

4. Briefly stated, the facts of the case are that the appellants are engaged in providing the taxable services, under the category of Information Technology Software Services (ITSS) and Business Support Services (BSS). The appellants export the entire output service to their associated enterprises, located abroad. For provision of such taxable services, the appellants had procured various input services on payment of service tax thereon. The service tax paid by the appellants as per invoices issued by the service providers were availed as CENVAT Credit in terms of Rule 3 of the Cenvat Credit Rules, 2004. Since, the entire output services provided by the appellants were exported outside the country, there was no scope or occasion on the part of the appellants to utilize such accumulated Cenvat Credit available in the Books of Accounts and therefore, during the disputed period from July 2010 to March 2014, the appellants had claimed refund amount in terms of Rule 5 of the Rules of 2004, in respect of the accumulated Cenvat balance available in their Books of Accounts. The refund applications filed by the appellants were favorably considered by the authorities below in some cases and the benefit was rejected in some other cases, holding that there is no nexus between the input services and the output service provided by the appellants. The impugned order, insofar as it has upheld rejection of the refund applications, the appellants had preferred these appeals before the Tribunal.

5. Learned Sr. Advocate appearing for the appellants submitting that on receipt of the input services, the department had initiated show

cause proceedings under Rule 14 of the Rules of 2004, seeking for denial of the benefit of CENVAT Credit on the ground that such credit was availed irregularly by the appellants. The adjudication order passed by the original authority was appealed against by the appellants before the Tribunal and the Tribunal vide Final Order No. A/ 85266/2025 dated 25.02.2025 and A/85977/2019 dated 30.05.2019 had substantially allowed the appeal filed by the appellants. In the said orders, the Tribunal had rejected the appeal for an amount of Rs.11,03,689/- and Rs.46,180/- (Rs.11,49,869/-), holding that taking of Cenvat Credit is irregular inasmuch as there is no nexus between the disputed services and the output service provided by the appellants. Thus, learned Sr. Counsel submitted that under Rule 14 *ibid,* since the proceedings initiated by the department also covers the amount, for which the refund applications were filed by the appellants under Rule 5 of the Rules of 2004, the nexus aspect between the input services and the exported output service should not be questioned by the department.

6. On the other hand, the learned Authorized Representative appearing for the Revenue reiterated the findings recorded in the impugned order.

7. The appellants have mainly contended that in respect of taking CENVAT Credit on the disputed services, for which these refund applications were filed, were already resolved by the original authority, the learned Commissioner (Appeals) as well as by the Tribunal. Considering the submissions made by the learned Sr. Advocate that for an amount of Rs.11,49,869/-, the CENVAT Credit was irregularly availed, the remaining amount as per the Learned Sr. Advocate should be available for the benefit of refund claimed under Rule 5 of the Rules of 2004. However, we are of the view that at this juncture, we cannot examine the arithmetical accuracy with regard to the CENVAT Credit, which was initially denied by the department and subsequently upheld by the Tribunal for a part amount and whether, the amount disallowed by the Tribunal for CENVAT benefit, is a part of the refund applications arising out of the appeals filed before the Tribunal. Therefore, we are of the view that the factual aspect involved in all the appeals should be examined by the original authority for a proper fact finding whether, the nexus aspect between the disputed services and the output service had already been resolved by the department as well as appellate

forum, involving the Cenvat amount of Rs. 11,49,869/-. Since the law is well settled that while entertaining the refund application filed under Rule 5 of the Rules of 2004, the nexus aspect cannot be questioned by the department, we direct the original authority to confine his findings only to the aspect of the arithmetical accuracy that the CENVAT Credit allowed by the Tribunal vide orders dated 25.02.2025 and 30.05.2019, were the part of the refund applications, for which the present appeals were filed by the appellants.

8. In view of the foregoing discussions, the impugned order to the extent, it has upheld the adjudication orders and rejected the appeals filed by the appellants is set aside and the appeal to such extent is allowed in favour of the appellants by way of remand to the original authority for passing of the *de novo* adjudication order, in line with the observations made hereinabove. Needless to say, that the opportunity of personal hearing should be granted to the appellants before deciding the matters afresh.

9. In the result, the appeals are allowed by way of remand.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

SM