

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**  
**MUMBAI**  
**WEST ZONAL BENCH**

**Service Tax Appeal No. 86395 of 2020**

[Arising out of Order-in-Appeal No. CKJ/GST/A-I/Mum/77/20-21 dated 17.09.2020 passed by the Commissioner (Appeals)-I, GST & Central Excise, Mumbai]

**Course5 Intelligence Pvt. Ltd.** .....Appellant  
**Unit 302, 3<sup>rd</sup> Floor, Bldg no. 3, Mindspace SEZ**  
**Belapur Road, Airoli, Navi Mumbai**

*VERSUS*

**Commissioner, CGST & Central Excise** .....Respondent  
**Mumbai East**  
**9<sup>th</sup> Floor, Lotus Infocentre,**  
**Near Parel Station,**  
**Parel, Mumbai**

**APPEARANCE:**

Shri Parth Shah, Chartered Accountant for the appellant  
Shri S B P Sinha, Supdt (AR) for the respondent

**CORAM:**

**HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)**

**FINAL ORDER No: 86847/2025**

DATE OF HEARING : 09.07.2025

DATE OF DECISION : 27.11.2025

**Per: AJAY SHARMA**

This appeal challenges the impugned Order-in-Appeal dated 17.9.2020 whereby the learned Commissioner rejected the appeal filed by the appellant and upheld the Order-in-Order dated 26.4.2019/1.5.2019 passed by the Adjudicating Authority

rejecting the refund claim filed under Rule 5 of the CENVAT Credit Rules, 2004.

2. The sole issue for consideration is whether non-disclosure of availed Cenvat Credit in ST-3 returns is sufficient to deny the refund claimed u/r. 5 of Cenvat Credit Rules, 2004 r/w. Notification No. 27/2012-ce (NT) dated 18.6.2017?

3. I have heard rival submissions and perused the case records including the written submissions and case laws placed on record. The dispute pertains to the period July, 2016 to September, 2016. The said issue is no longer *res integra*. In appellant's own case for the immediately preceding period i.e. April, 2016 to June, 2016 on identical issue, this Tribunal vide *Final Order No. A/86229/ 2022, dated 22.12.2022, in Service Tax Appeal No. 87237 of 2019 titled as Course5 Intelligence Pvt. Ltd. vs. Commissioner, CGST, Mumbai East*, set aside the similar order impugned therein and allowed the appeal by way of remand to the Adjudicating Authority. The relevant paragraphs of the said decision are extracted as under:-

"xxx

xxx

xxx

*5. I have heard Learned Counsel for the appellant and Learned Authorised Representative appearing on behalf of Revenue and perused the case records including the case laws submitted during the course of hearing. Time and again in series of decisions this Tribunal has repeatedly held that non-mentioning of the credit availed in ST-3 return is only a procedural lapse for which the substantial relief cannot be denied to the assessee but despite that the lower authorities seem to*



*returns were filed manually and the same were available with the department for necessary verification, I am of the view that the matter should be remanded to the original authority for verification of ST-3 returns manually filed by the appellant and the input service invoices, based on which credit was availed by the appellant. If the records maintained by the appellant demonstrate that the input services were used/utilized for export of service, the refund benefit should be extended by the original authority under Rule 5 of the Rules.*

*7. In view of the above, after setting aside the impugned order, the matter is remanded to the original authority for deciding the issue afresh, in line with the above observations. Needless to say that opportunity should be granted to the appellant before deciding the issue afresh.*

*8. In the result, appeals are allowed by way of remand."*

*In the instant matter, the mistake committed by the appellant is merely a procedural lapse which they tried to rectify immediately thereafter but were not permitted and substantial relief was denied to them, which is not permissible in law. Admittedly the ST-3 Returns manually filed by the Appellants were not verified as the same were not accepted by the authority below. In view of the discussions made hereinabove, I am of the considered view that justice demands that the impugned order be set aside and the matter be remanded to the Original Authority for deciding the issued afresh after verification of ST-3 returns filed by the appellant manually.*

*6. Accordingly, the appeal is allowed and the matter is remanded to the Original Authority in order to decide the issue afresh in accordance with the observation made hereinabove. It is needless to mention that while deciding the matter the authority concerned shall follow the principle of natural justice and grant proper opportunity of hearing to the appellant."*

In the aforesaid decision, while reiterating the consistent legal position it has been held that denial of refund solely for

procedural lapse of non-reflection of credit in ST-3 returns is impermissible when the assessee possess valid records demonstrating availment and utilisation of credit. It has also been observed that failure of the authorities to accept/verify manually filed revised returns is contrary to principles of natural justice.

4. For a procedural lapse, substantive relief cannot be denied. Therefore, following the aforesaid decision I deem it proper to remand this appeal also back to the Original Authority to decide the refund claim afresh in accordance with the observations made in the aforesaid decision (supra) after verifying the documents in support of the claim. Accordingly the impugned order is set aside and the appeal is allowed by of remand to the Adjudicating Authority for *de novo* adjudication in the above terms. The appellant is directed to produce all evidences in support of its claim. It is needless to mention that the Adjudicating Authority shall afford a proper opportunity of hearing and follow the principle of natural justice.

(Pronounced in open Court on 27.11.2025)

**(Ajay Sharma)**  
**Member (Judicial)**

//SR