# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

**Service Tax Appeal No. 86171 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited** **.... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax** **.... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**WITH**
**Service Tax Appeal No. 86172 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited** **.... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax** **.... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86173 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited** **.... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax** **.... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86174 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited .... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax .... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86175 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited .... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax .... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86176 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited .... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax .... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86177 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited** **.... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax** **.... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86178 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited** **.... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax** **.... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86180 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited** **.... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax** **.... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86181 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited .... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax .... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86183 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited .... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax .... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86184 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited .... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax .... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86185 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited .... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax .... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86192 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited .... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax .... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86194 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited .... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax .... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86195 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited .... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax .... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86196 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited .... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax .... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**AND**

**Service Tax Appeal No. 86197 of 2018**

(Arising out of Order-in- Appeal No. NA/GST A-III/MUM/246-263/17-18 dated 29.11.2017 passed by the Commissioner (Appeals-III), GST & CX, Mumbai)

**M/s. Tech Mahindra Limited .... Appellant**
Spectrum Towers, Mindspace, Chincholi Bunder,
Link Road, Malad (West), Mumbai- 400 064.

VERSUS

**Commissioner of Central Excise & Service Tax .... Respondent**
**Mumbai West**
1st Floor, Shri Mahavir Jain Vidyalaya,
C.D. Burfiwala Marg, Juhu Lane, Andheri (West),
Mumbai- 400 058.

**APPEARANCE:**

Ms Puloma Dalal, Chartered Accountant for the appellants
Ms S. Varalaxmi, Authorized Representative for the Revenue

**CORAM:**

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

**FINAL ORDER NO. A/85344-85361/2026**

Date of Hearing: 24.02.2026

Date of Decision: 24.02.2026

**PER: S.K. MOHANTY**

Heard both sides and examined the case records.

2. Brief facts of the case are that the appellants were registered with the Software Technology Park of India (STPI) as an Export Oriented Unit (EOU) and are engaged *inter alia*, in the business of voice based call centre services (ITES) to the Mobile Operating companies located in U.K., Ireland and Australia. Since, the entire output services under the category of ITES were exported by the appellants, they had claimed the service tax refund in respect of the input services used in exportation of the output services, for the period from April 2012 to September 2016. The refund applications were filed by the appellants under Rule 5 of the CENVAT Credit Rules, 2004 read with the notification issued thereunder. During the said period, the appellants had filed 18 numbers of refund applications, claiming an aggregate refund of CENVAT Credit of Rs.56,15,06,563/- of service tax paid on the input services, which were used in or in relation to exportation of the output services by them. The refund applications filed by the appellants were favourably considered by the original authority in part and the Commissioner (Appeals) also allowed the refund benefit in some of the cases. Vide the impugned order, the learned Commissioner (Appeals) has denied the benefit of refund for an amount of Rs.6,44,48,197/-, which is the subject matter of present dispute before the Tribunal.

3. In support of rejection of the refund benefit amounting to Rs.6,44,48,197/-, the learned Commissioner (Appeals) has recorded the following observations in the impugned order dated 29.11.2017:

(i) There is no nexus between the disputed services and the output service exported/not associated with quality and efficiency of output service and not related to the business activities;

(ii) Made belated debit entry in CENVAT Ledger in terms of Notification No.27/2012-C.E. (N.T.) dated 18.06.2012;

(iii) CENVAT Credit not reflected in the ST-3 Returns;

(iv) No documentary evidence were submitted to show that the disputed services were eligible for the benefit of CENVAT Credit and subsequent grant of refund, owing to exportation of the services;

(v) Service tax paid on property tax should not be allowed for the benefit of CENVAT Credit;

(vi) Invoices are not in the name of the appellants, PAN based registration missing and CENVAT Credit registered had captured wrong category of services.

The impugned order has also denied the refund benefit, which were withdrawn by the appellants themselves, before completion of the adjudication proceedings and that they had pressing for refund of the amount already withdrawn by them.

4. Rule 3 of the CENVAT Credit Rules, 2004 is the enabling provision, which allows a service provider to take CENVAT Credit of various duties paid on the inputs and service tax paid on the input services. The credit so allowed for availment under the sub-rule (1) of Rule 3 *ibid* is permitted to be utilized in the manner prescribed in sub-rule (4) of Rule 3 *ibid.* Where taking of CENVAT Credit or utilization of the same is not in conformity with the CENVAT statute, Rule 14 of the Rules of 2004 mandates that the department can proceed against the assessee to recover the irregularly availed/utilized CENVAT Credit and for effecting such recovery, the provisions of Section 73 of the Finance Act, 1994 shall apply *mutatis-mutandis*. In the case in hand, neither taking of CENVAT Credit on the input services nor its utilization by the appellants were questioned by the department inasmuch as no show cause notices were issued under Rule 14 of the Rules of 2004, calling upon the appellants to reverse the CENVAT Credit taken by them irregularly. Thus, in absence of any proceedings being initiated under Rule 14 of the Rules of 2004 at the time of availment of the CENVAT credit, the department is not permitted subsequently to deny the refund applications filed, owing to the reason of exportation of the output services. Refund claim filed under Rule 5 *ibid* can only be questioned or agitated, if the formula prescribed thereunder has not been complied with by the assessee. In the present case, both the authorities below have not questioned the issue that the appellants did not comply with the formula laid down in the said rule. Thus, for non-establishment of nexus between the disputed services and the output services exported by the appellants, Rule 5 *ibid* cannot be pressed upon for denying the

benefit of refund, which is otherwise due to the appellants, because the entire output services provided by them were exported. Considering the true scope and ambit of Rule 5 of the Rules of 2004, the Tax Research Unit (TRU) in the Department of Revenue, Ministry of Finance, vide letter dated 16.03.2012 had clarified as under:

> *"F. CENVAT Credit Rules, 2004*
>
> *F.1. Simplified scheme for refunds:*
>
> *1. A simplified scheme for refunds is being introduced by substituting the entire Rule 5 of CCR, 2004. The new scheme does not require the kind of correlation that is needed at present between exports and input services used in such exports. Duties or taxes paid on any goods or services that qualify as inputs or input services will be entitled to be refunded in the ratio of the export turnover to total turnover.*
>
> *2. The notification prescribing the detailed manner and safeguards will be issued by the Policy wing shortly."*

Therefore, we are of the view that denial of CENVAT refund amounting to Rs.92,08,454/- on the ground of non-establishment of nexus between the disputed input services and the exported output services is not proper and justified.

5. The learned Commissioner (Appeals) has denied the benefit of refund amounting to Rs.5,14,26,357/- on the ground that the debit entries were made belatedly in the CENVAT Credit register, which is not in conformity with the procedures laid down in the Notification dated 18.06.2012. On perusal of the case records, we find that the appellants had made the debit entry belatedly in respect of the amount, for which the refund benefit was claimed. Since, the requirement of the Notification dated 18.06.2012 had been duly complied with by capturing the debit particulars in the CENVAT Register, we are of the view that making of belated entries in the CENVAT ledger should be considered as procedural lapse, for which the substantive benefit of refund cannot be denied to the appellants. We find that the Co-ordinated Bench of this Tribunal in the case of *Sandoz Pvt. Ltd. Vs. Commissioner of C. Ex., Belapur* – 2015 (325) E.L.T. 387 (Tri.-Mumbai), has allowed the appeal, holding that the belated debit entry made in the CENVAT Account cannot be a defensible ground for denying the benefit of refund, which otherwise is entitled to the appellants. Thus, we are of the view that the appellants should be entitled for the benefit of refund for an amount of Rs. 5,14,26,357/-.

6. The impugned order has rejected the refund benefit amounting to Rs. 24,57,843/- on the ground that the ST-3 Returns filed by the appellants did not

capture the CENVAT Credit taken on the input services, which were used for exportation of the output service. Pursuant to such observations made in the impugned order, the appellants have stated that the CENVAT particulars were duly reflected in the ST-3 Returns filed for the subsequent period and since the statutory requirement has been duly complied with, the benefit of refund cannot be denied. We are in agreement with the submissions made by the appellants that they had reflected the CENVAT Credit particulars in their ST-3 Returns covering the earlier period. Since, the statutory requirement of maintaining proper records and filing of ST-3 Returns based on those records, have not been disputed specifically in the impugned order, we are of the view that such ground should not be considered as proper and justified for denying the benefit of refund. In this context, we find that this Tribunal in the case of *Q Logic India Private Limited Vs. Commissioner of Service Tax, Pune* – 2016 (44) S.T.R. 686 (Tri.-Mumbai), has allowed the benefit of refund, holding that the ST-3 Returns had duly captured the CENVAT particulars and that the entire output services were exported by the appellants involved therein. In the present case, since the department had not specifically raised any objection that the output services were not exported by the appellants, in our considered view, denial of the benefit of refund amounting to Rs.24,57,843/- shall not stand the judicial scrutiny. Similarly, denial of the benefit of refund amounting to Rs. 21,793/- on the ground that the invoices did not contain the name of the company, missing of PAN based registration etc., is also not proper and justified inasmuch as at the time of taking CENVAT credit by the appellants, no such objections were raised by way of issuance of the show cause notice and more importantly, all the services provided by the appellants were duly exported to the place outside India.

7. The impugned order has also denied the benefit of refund amounting to Rs.11,69,833/- on the ground that no documentary evidences were submitted by the appellants to prove that the input services were in fact, used in or in relation to exportation of the output services. Since, documentary verification is a paramount requirement for consideration of the benefit of refund under Rule 5 of the Rules of 2004, we are of the considered view that the findings recorded in the impugned order cannot be faulted with. However, since the appellants had claimed that they had maintained adequate records and also submitted the same before the departmental authorities during the course of adjudication proceedings, the benefit of refund, in our considered opinion, cannot be denied to the appellants. Taking into consideration the fact that the appellants had maintained proper records as claimed, we are of the view that the matter should

be remanded to the original authority for verification of the documentary evidence for a subjective analysis whether, the benefit of refund as claimed by the appellants should be available to them or otherwise.

8. With regard to the benefit of refund amounting to Rs. 1,63,917/-, the appellants have contended that such claim amount has already been withdrawn by them. However, on perusal of the impugned order, we find that the learned Commissioner (Appeals) has not recorded any specific observations with regard to withdrawal of the claim application by the appellants. Since the appellants had voluntarily claimed that they had already withdrew their claim application and did not press for the benefit of refund amounting to Rs.1,63,917/-, we are of the view that the benefit of refund of such amount should not be permissible to them.

9. To sum up, all the appeals filed by the appellants are disposed of in the following terms:

(a) Refund benefit amounting to Rs. 6,31,14,447/- is allowed in favour of the appellants, as discussed in paragraphs 4, 5 and 6 above.

(b) Benefit of refund for Rs.1,63,917/- is disallowed, as per the discussions made in paragraph 8 above.

(c) With regard to the refund claimed amount of Rs.11,69,833/- (as at paragraph 7), the matter is remanded to the original authority for verification of the documentary evidences. If the original authority is satisfied that the disputed services as per the invoices were used/utilized in or in relation to the exportation of the output services, then benefit of refund should be allowed in favour of the appellants. In the *de novo* proceedings, the original authority should verify the evidence properly and should address the issue whether, entitlement to the benefit of refund is in conformity with the CENVAT statute.

10. All the appeals filed by the appellants are disposed of.

(Dictated and pronounced in open court)

**(S.K. MOHANTY)**
**MEMBER (JUDICIAL)**

**(M.M. PARTHIBAN)**
**MEMBER (TECHNICAL)**

*SM*