# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

## Service Tax Appeal No. 88805 of 2018

(Arising out of Order-in-Appeal No. MMK/67-74/RGD-APP/2018-19 dated 04.05.2018 passed by Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigarh.)

**Commissioner of CGST and Central Excise, Belapur** ... **Appellant**
1st Floor, CGO Complex, CBD Belapur,
Navi Mumbai- 400 614.

Versus

**Flemingo Duty Free Shops Pvt. Ltd.** .... **Respondent**
D-73/1, TTC Industrial Estate, MIDC,
Turbhe, Navi Mumbai- 400 705.

**With**

## Service Tax Appeal No. 88813 of 2018

(Arising out of Order-in-Appeal No. MMK/67-74/RGD-APP/2018-19 dated 04.05.2018 passed by Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigarh.)

**Commissioner of CGST and Central Excise, Belapur** ... **Appellant**
1st Floor, CGO Complex, CBD Belapur,
Navi Mumbai- 400 614.

Versus

**Flemingo Duty Free Shops Pvt. Ltd.** .... **Respondent**
D-73/1, TTC Industrial Estate, MIDC,
Turbhe, Navi Mumbai- 400 705.

**And**

## Service Tax Appeal No. 88819 of 2018

(Arising out of Order-in-Appeal No. MMK/67-74/RGD-APP/2018-19 dated 04.05.2018 passed by Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigarh.)

**Commissioner of CGST and Central Excise, Belapur** ... **Appellant**
1st Floor, CGO Complex, CBD Belapur,
Navi Mumbai- 400 614.

Versus

**Flemingo Duty Free Shops Pvt. Ltd.** .... **Respondent**
D-73/1, TTC Industrial Estate, MIDC,
Turbhe, Navi Mumbai- 400 705.

**And**

## Service Tax Appeal No. 88820 of 2018

(Arising out of Order-in-Appeal No. MMK/67-74/RGD-APP/2018-19 dated 04.05.2018 passed by Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigarh.)

**Commissioner of CGST and** **... Appellant**
**Central Excise, Belapur**
1st Floor, CGO Complex, CBD Belapur,
Navi Mumbai- 400 614.

Versus

**Flemingo Duty Free Shops Pvt. Ltd.** **.... Respondent**
D-73/1, TTC Industrial Estate, MIDC,
Turbhe, Navi Mumbai- 400 705.

**APPEARANCE:**

Shri Arun Bhaskar, Authorized Representative for the Revenue
None for the Respondents

**CORAM:**

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

**FINAL ORDER NO. A/85529-85532/2026**

Date of Hearing : 25.03.2026
Date of Decision: 25.03.2026

***PER: S.K. MOHANTY***

Heard both sides.

2. Feeling aggrieved with the impugned order dated 04.05.2018 passed by the learned Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigarh, Revenue has preferred these appeals before the Tribunal. In the impugned order, the learned Commissioner (Appeals) has set aside the adjudication order dated 28.06.2017 passed by the original authority and allowed the appeals in favour of the respondent. The amount involved in each of the impugned proceedings is Rs.28,36,386/- (ST/88805/2018), Rs.28,23,922/- (ST/88813/2018), Rs.24,18,733/- (ST/88819/2018) and Rs.7,78,605/- (ST/88820/2018). Insofar as the monetary limit for filing of appeals before the Appellate Tribunal is concerned, by deriving the powers conferred in Section 35R of the Central Excise Act, 1944, made applicable to matters relating to service tax under Section 83 of the Finance Act, 1994, the Central Board of Indirect Taxes and Customs (CBIC) has issued the instructions, from time to time, with the objective in reduction of the Government litigation in the area of Central Excise and Service Tax. In the latest instruction issued by the CBIC from file F. No. 160390/20/2024-JC-

CBEC dated 06.08.2024, the threshold monetary limit of Rs. 60 lakhs has been prescribed, below which the appeals shall not be filed before the CESTAT.

3. In the case in hand, since the service tax demands confirmed in the adjudication order, individual case-wise, is below the threshold limit of Rs.60,00,000/- prescribed under the said Instruction dated 06.08.2024, Revenue is not permitted to file appeals before the Tribunal. It is confirmed that the disputed amount of service tax involved in the present appeals preferred by the Revenue is less than the monetary limit prescribed under the instruction dated 06.08.2024 issued by the CBIC. Further, though at paragraph 3 in the said instructions dated 06.08.2024, there is specific mention of agitating the matter before the Appellate Forum, irrespective of the involvement of the amount on certain issues, but the issue categorized therein are not confirming to the present appeals filed by the Revenue inasmuch as denial of the benefit of refund under Rule 5 of the CENVAT Credit Rules, 2004, is the subject matter of present dispute. Hence, the appeals can be disposed of in terms of the litigation policy formulated by the Government.

4. Considering the disputed amount of service tax involved in the present appeals, which is below the prescribed threshold limit as per the Instruction dated 06.08.2024 issued by the CBIC, the appeals filed by the Revenue in our considered view, are liable to be dismissed. Accordingly, the appeals filed by Revenue are dismissed under the Litigation Policy of the Government.

(Dictated and pronounced in open court)

**(S.K. Mohanty)**
**Member (Judicial)**

**(M.M. Parthiban)**
**Member (Technical)**

SM