# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

**Service Tax Appeal No. 85440 of 2017**

(Arising out of Order-in-Appeal No. MUM-SVTQAX-002-APP-591 to 595-16-17 dated 30.11.2016 passed by the Commissioner (Appeals), Service Tax-II, Mumbai)

**M/s Accenture Solutions Pvt. Ltd.** **.... Appellant**
Plant No. 3, Godrej & Boyce Complex,
Pirojshah Nagar, Vikhroli (W),
Mumbai – 400 079

Versus

**Commissioner of CGST & Central Excise, Mumbai East** **.... Respondent**
10th Floor, Lotus Info Centre, Parel Station Road,
Parel (East), Mumbai – 400 012

APPEARANCE:

Ms. Dhruvi Shah, Advocate for the Appellant

Shri S.B.P. Sinha, 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/85981/2026**

Date of Hearing: 28.07.2026
Date of Decision: 28.07.2026

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

Heard both sides and perused the case records.

2. Brief facts of the case are that the appellants are engaged in provision of various taxable services, defined under the Finance Act, 1994. For provision of the taxable services, the appellants got themselves registered with the jurisdictional Service Tax authorities. The appellants avail CENVAT Credit of service tax paid on the input services. During the disputed period i.e., September 2011, the appellants had filed application under Rule 5 of the CENVAT Credit Rules, 2004 claiming refund of accumulated CENVAT Credit available in their Books of Accounts. The appellants have filed the refund application on the ground that since the output services were exported by them, there was no scope or occasion for

them to utilize the CENVAT Credit available in their Books of Accounts. The refund application filed by the appellants was sought to be partially denied on various grounds. The original authority had adjudicated the refund application and allowed refund benefit of Rs.7,83,00,223/- and rejected the claim of Rs.37,53,498/-, assigning the reasons that there is no nexus between the disputed services and the output service exported by the appellants and that input invoices do not have PAN based registration number of service provider. On an appeal against the adjudication order dated 31.01.2013, the learned Commissioner (Appeals) vide the impugned order dated 30.11.2016 has upheld the adjudication order and rejected the appeal filed by the appellants. Feeling aggrieved with the impugned order dated 30.11.2016, the appellants have preferred this appeal before the Tribunal.

3. It is an admitted fact on record that taking of CENVAT Credit by the appellants on the disputed services was never questioned by the Department, which is evident from the fact that Rule 14 of the Rules of 2004 read with Section 73 of the Finance Act, 1994 has not been invoked, seeking recovery of alleged irregularly availed CENVAT Credit. Since the CENVAT Credit taken by the appellants was not disputed by the department, the refund benefit claimed by the appellants upon exportation of the output services cannot be questioned subsequently. Further, we also find that the Department has not specifically raised any objection to the effect that no services were exported by the appellants. Therefore, we are of the view that denial of refund benefit on the ground of non-establishment of nexus and non-mentioning of the PAN based registration of the service provider was not the defensible ground inasmuch as Rule 5 of the Rules of 2004 has provided for grant of refund in respect of exportation of the output services and observance of the procedures laid down therein. In the case in hand, the department had not specifically objected to the fact of non-exportation of the goods and non-compliance of the requirement provided under the said Rule 5 ibid. Therefore, we are of the view that denial of the benefit of refund cannot be sustained.

4. We find that an identical issue has been dealt with by the Tribunal in the case of *M/s Parthenon India Pvt. Ltd. Vs. Commissioner of CGST, Mumbai South – 2023 (3) TMI 511 – CESTAT MUMBAI.* The relevant paragraphs recorded therein are quoted herein below: -

> *"5. Rule 3 of the CENVAT Credit Rules, 2004 is an enabling provision, which entitles the assessee to avail CENVAT Credit paid on the input, input services and the capital goods. The manner of utilization of CENVAT Credit is contained in sub-rule (4) of the Rule 3 ibid. Since export of service does not attract payment of Service Tax, the appellant was not in a position of utilize the accumulated CENVAT Credit in the manner prescribed and thus, they had filed an application before the jurisdictional Service Tax authority, claiming refund of accumulated CENVAT Credit available in the Books of Accounts. The issue regarding mention of wrong address in the disputed invoices has not been agitated by the Department at the time of availment of CENVAT Credit by the appellant. It is no doubt, and admitted fact that the Department had the occasion or scope to invoke the provisions of Rule 14 ibid read with Section 73 ibid at the material time, when the CENVAT Credit was availed by the appellant. In this case, since the Department has failed to invoke such provisions at the relevant point of time, the benefit of refund provided under Rule 5 ibid, cannot be curtailed on the issues, like invoices mentioned some other address and there is no nexus with the exportation of output service. In other words, Rule 5 ibid in unambiguous terms provides that grant of refund is subject to fulfilment of the conditions laid therein and as per the procedures laid prescribed in the notification issued thereunder and not otherwise.*
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> *6. We find that the authorities below have not discussed the issue regarding entitlement of the appellant to the benefit of refund inasmuch as, there is no specific discussion as to whether or not, the procedures laid down under Rule 5 ibid as well as the notification have not been complied with by the appellant. Thus, in absence of such specific findings being recorded, in our considered view, rejection of refund benefit cannot be sustained. We find that in the case of Credit Suisse Business Analysis (supra), this Tribunal went to the extent of allowing the CENVAT Credit, even if the invoices were not submitted before the Bench for ascertaining the eligibility of the CENVAT Credit. Further, in the case of Qualcomm India Pvt. Ltd. (supra) and BNP Paribbas India Solution (supra), the co-ordinate Bench of the Tribunal has consistently held that nexus aspect cannot be questioned, while considering the grant of refund provided under Rule 5 ibid. Hence, we are of the firm opinion that denial of refund benefit by the Department will not stand judicial scrutiny as per the authoritative decisions rendered by the judicial forum."*

5. In view of the foregoing discussions, we do not find any merits in the impugned order, insofar as it has upheld rejection of the refund benefit. Therefore, the impugned order is set aside and appeal is allowed in favour of the appellants.

(Dictated and pronounced in open court)

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

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

*Sinha*