CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH, MUMBAI

Service Tax Appeal No. 88009 of 2019

[Arising out of Order-in-Appeal No. NA/CGST A-I/MUM/23/19-20 dated 28.06.2019 passed by the Commissioner of GST & CX (Appeals-I), Mumbai.]

M/s Mobility App Consultant ....Appellant
406, Dalamal House, Jamanlal Bajaj Marg,
Nariman Point, Mumbai – 400 021

VERSUS

Commissioner of CGST &
Central Excise, Mumbai South ....Respondent
13th Floor, Air India Building,
Nariman Point, Mumbai – 400 021

APPERANCE:

Shri Jayesh Shah, Chartered Accountant for the Appellant
Shri Dinesh Nanal, Deputy Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. 86107/2026

Date of Hearing: 20.08.2026
Date of Decision: 11.09.2026

Refund claim of the Appellant to the tune of ₹4,99,521/- that was rejected by the Commissioner of Central Tax (Appeals-II) Pune on the ground of limitation, as one year from the date of receipt of FIRC (Forward Inward Remittance Certificate) had expired, is assailed in this appeal.

2. Appellant M/s. Mobility App Consultant, an advertising agency service provider, sought for refund of CENVAT credit of Service Tax of

₹5,03,878/- through 2 refund applications for 2 quarters in respect of 18 FIRCs received between 01.01.2017 and 30.06.2017 that was disallowed by the Adjudicating Authority as it was treated to be a time barred claim, except one FIRC for ₹4,357/-.

The said order has been confirmed by the Commissioner (Appeals) by distinguishing Larger Bench decision of this Tribunal made in *Span Infotech Pvt. Ltd. case* reported in *2018-TIOL-516-CESTAT-LB* on the ground that the period for the refund claim pertains to the period after amended Notification No. 14/2016-CE (NT) dated 01.03.2016 has come into force and not alone based on previous Notification 27/2012-CE (NT), basing on which *Span Infotech Pvt. Ltd.* order was passed.

3. In its memo of appeal and during the course of hearing of the appeal, Learned Counsel for the Appellant Mr. Jayesh Shah submitted that having regard to Rule 5 of CENVAT Credit Rules, 2004 that provided a detailed formula for calculating the amount of refund that has to be applied to the entire period vis.-a-vis. Provision contained in Clause 2 of Board's Notification No. 27/2012-CE (NT) which permits filing of one claim of refund for every quarter, Larger Bench of the Tribunal in *Span Infotech Pvt. Ltd. (supra)* case had held that the relevant date for the purpose of deciding the time limit for consideration of refund claims in respect of export of services may be taken as the end of quarter in which FIRC is received, in cases where refund claims are filed on a quarterly basis and the Bench had taken note of the notification no 27/2012.

4. Learned Authorised Representative for the Respondent-Department Mr. Dinesh Nanal, in response to such submissions, argued in favour of the reasoning and rationality of the order passed by the Commissioner (Appeals) who also partly confirmed the Adjudicating Authority's order, as being filed within one year of receipt of FIRC. He further argued that Notification No. 14/2016-CE (NT) dated 01.03.2016 had amended Notification No. 27/2012-CE (NT) in

order to give effect to the Larger Bench decision in *Span Infotech Pvt. Ltd. (supra)* and therefore learned Commissioner (Appeals) had rightly rejected the Appellant's refund claim seeking refund of amounts shown in FIRC received above one year, since it was filed after laps of stipulated one year period, for which interference in the order passed by the Commissioner (Appeals) by the Tribunal is uncalled for.

5. Heard submissions from both the sides and perused the case record. The only logic that can be put forth in this case is that Appellant had plenty of scope to seek refund of the disputed amount before the quarter ending March, 2018 and June, 2018 in order to cover its claim within the period of limitation. But the same logic would not sustain primarily on two grounds. First, there is no evidence on record that any refund claim was made for the previous quarter in which FIRC of March & June, 2018 would have been included. Second and the most significant reason to negativate such logic is that the Rule provided Appellant to file refund claim within one year and going by the reason cited by the Respondent-Department, the same would expire on one year of receipt of FIRC but it is paradoxical to the provision contained in Clause 2 of Board's Notification No. 27/2012-CE (NT) that authorised claimant to filed only one refund application in one quarter. This would extinguish the right of filing other refund claim, if any, not made within one year by squeezing it further as there is possibility that some of the FIRC received dates may came closure to the end of quarter.

5.1 Further, the submission made by learned Authorised Representative that learned Commissioner (Appeals) had given his finding appropriately that the decision of *Span Infotech Pvt. Ltd.* would be applicable exclusively to transactions made prior to 01.03.2016, on which date Notification No. 14/2016-CE (NT) was brought into force is not based on fact since in para 13 of *Span Infotech Pvt. Ltd.,* the said decision has been analysed and it was ultimately concluded that in view of the observation of Hon'ble Apex Court on retrospective/prospective application of the said notification, the relevant date for purpose of deciding the time limit for consideration of refund claims under Rule 5 of the CCR may be taken as the end of the quarter in which FIRC was received, in cases where the refund claims are filed on a quarterly basis.

5.2 In the instant case Appellant has made it declaration in writing that they being exporter and supplier to domestic market were filing returns on quarterly basis and the last date of filing of return upon receipt of FIRC for these 2 quarters, which was erroneously placed at alternate columns in the Adjudicating Authority's orders, has well been taken care of by the Commissioner (Appeals) in his order passed at para 2 of the Order-in-Appeal dated 28.06.2019. I am, therefore, of the considered view that findings of the Larger Bench of the Tribunal in *Span Infotech Pvt. Ltd. (supra)* that the limitation period would expire at the end of the quarter remains unaltered even after the amended Notification No. 14/2016-CE (NT) dated 01.03.2016 has come in to force. Hence the order.

ORDER

6. The appeal is allowed and the order passed by the Commissioner of GST & CX (Appeals-I), Mumbai *vide* Order-in-Appeal No. NA/CGST A-I/MUM/23/19-20 dated 28.06.2019 to the extent of rejection of Appellant's claim for refund of ₹4,99,521/- is hereby set aside, with consequential relief. The Appellant is entitled to get the said refund with applicable interest which respondent-department is directed to pay within two months of the communication of this order.

(Order pronounced in the open court on 11.09.2026)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

Prasad