CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 87578 of 2017

[Arising out of Order-in-Appeal No. PK/12/MC/2017 dated 02.08.2017 passed by Commissioner (Appeals-II), CGST & Central Excise, Mumbai.]

Axis Bank Ltd. **.... Appellant**
6th Floor, Axis House,
Bombay Dyeing Mills Compound,
P.B. Marg, Mumbai- 400 025.

Versus

Commissioner of CGST and Central Excise, Mumbai Central **.... Respondent**
GST Bhavan, 115, Maharashi Karve Road,
Churchgate, Mumbai- 400 020.

Appearance:

Ms. Padmavati Patil, Advocate for the Appellant
Shri Savio Allan Lamb, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86198/2026

Date of Hearing: 23.09.2026
Date of Decision: 23.09.2026

Per: S.K. MOHANTY

Heard both sides and examined the case records.

2. The appellant in this case, had received the credit card services from the business entities located abroad and in terms of Section 66A of the Finance Act, 1994, they were liable for payment of service tax under the Reverse Charge Mechanism (RCM), as the recipient of such service. The appellant had discharged the service tax liability by utilizing the CENVAT Balance available in their books of accounts. Utilization of CENVAT Credit from the CENVAT account as a recipient of taxable service was objected to by the department. Subsequently, the appellant had paid the service tax liability in cash. Since the appellant did not pay the interest attributable

to delayed payment of service tax in cash, the department had proceeded against the appellant for confirmation of the interest demand and for imposition of penalty. The Show Cause Notice (SCN) dated 15.12.2011 issued in this regard, was adjudicated vide the original order dated 29.04.2014, wherein the Additional Commissioner of Service Tax-I, Navi Mumbai had confirmed the interest demand of Rs.16,92,269/- under Section 75 of the Act of 1994 and also imposed penalty of Rs. 5,000/- under Section 77 *ibid.* On appeal against the said adjudication order dated 31.03.2014, the learned Commissioner (Appeals) vide the impugned order dated 31.07.2017 has upheld confirmation of the adjudged demands and rejected the appeal filed by the appellant. Feeling aggrieved with the said impugned order, the appellant has preferred this appeal before the Tribunal.

3. Learned Advocate appearing for the appellant, at the outset, submitted that the proceedings are barred by limitation of time inasmuch as the period involved in the present dispute is June 2008, whereas the SCN was issued on 15.12.2011, which is beyond the normal period provided under Section 73 of the Act of 1994. She further submitted that utilization of CENVAT Credit for payment of service tax under the RCM is the correct method, as decided by different Benches of the Tribunal. Thus, she submitted that the charges of suppression, wilful mis-statement etc., cannot be levelled against the appellant, justifying invocation of the extended period of limitation.

4. On the other hand, learned authorized representatives appearing for the Revenue reiterated the findings recorded in the impugned order.

5. The issue concerning the facts whether, as a recipient of taxable service, can the appellant be permitted to utilize the CENVAT Credit for payment of service tax, is no more *res integra,* in view of the various orders passed by the Tribunal, relied upon by the learned Advocate for the appellant. In the case of *Morarjee Textiles Ltd. Vs. Commissioner of Central Excise, Nagpur-I* – 2020 (34) G.S.T.L. 548 (Tri.-Mumbai), this Bench of the Tribunal has held that utilization of CENVAT Credit by the recipient of taxable service is permissible under the CENVAT statute. Thus, under such circumstances, I am of the view that the proviso clause to Section 73 cannot be invoked, justifying issuance of SCN beyond the normal period of limitation of 18 months provided in the statute.

Therefore, in my considered view, the benefit of limitation should be available to the appellant. With regard to the issue whether the limitation aspect, can be invoked for the interest demand, I find that the Co-ordinate Bench of this Tribunal in the case of *Secure Hospitality and Insurance Service Pvt. Ltd. Vs. Commissioner of CGST and Central Excise, Thane West* – 2026-TIOL-599-CESTAT-MUM, by relying upon the judgement of Hon'ble Supreme Court in the case of *Commissioner Vs. T.V.S. Whirpool Ltd*. – 2000 (119) E.L.T. A177 (S.C.), has held that the period of limitation for issuance of the show cause notice should also applicable in the case of the demand of interest. The relevant paragraph in the said order is reproduced below:

> *"5. The Hon'ble Supreme Court in Civil Appeal No. 7299-7309/1997; Commissioner v. TVS Whirlpool Limited; 2000 (119) E.L.T. A177 (S.C.) has held that 'it is only reasonable that the period of limitation that applies to a claim for the principal amount should also apply to the claim for interest thereon'. The Tribunal's order impugned in that case [Collector of Customs vs. TVS Whirlpool Ltd.; 1996 (86) E.L.T. 144 (Tribunal)], dealt with an issue related to payment of interest under the Customs Act, 1962 wherein a similar provision of limitation exists in case of non-levy, short levy, etc. and held that recovery proceedings for interest must adhere to the same limitation as applicable to the principal duty."*

6. In view of the above discussions, the impugned order, to the extent it has confirmed the interest demand on the appellant is set aside and the appeal to such extent is allowed in favour of the appellant. Since the appellant did not press for the grounds urged in the appeal with regard to the imposition of penalty under Section 77 *ibid*, I am not expressing any opinion on such aspect and hold that imposition of penalty in the adjudication order is proper and justified, which should be paid forth by the appellant

7. In the result, the appeal is partly allowed, by setting aside the interest demand confirmed against the appellant.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

SM