CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. III

Service Tax Appeal Nos. 40466 to 40470 of 2021

(Arising out of Order-in-Appeal Nos. 52-56/2021(CTA-I) dated 16.04.2021 passed by Commissioner of GST and Central Excise (Appeals-I), No. 26/1, Mahatma Gandhi Road, Chennai – 600 034)

M/s. eShakti.com Pvt. Ltd. **...Appellant**
No. 544/545, Capitale Building,
Anna Salai, Teynampet,
Chennai – 600 018.

Versus

Commissioner of GST and Central Excise **...Respondent**
Chennai North Commissionerate,
No. 26/1, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

APPEARANCE:
For the Appellant : Mr. M. Ponnyswsamy, Consultant
For the Respondent : Mr. M. Selvakumar, Authorised Representative

CORAM:
HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER Nos. 40167-40171 / 2026

DATE OF HEARING : 19.08.2025
DATE OF DECISION : 02.02.2026

Per Mr. VASA SESHAGIRI RAO

These Appeals are filed by M/s. eShakti.com Pvt. Ltd., Chennai (hereinafter referred to as "the Appellant") against Order-in-Appeal Nos. 52-56/2021(CTA-I) dated 16.04.2021 ('Impugned Orders'), whereby the Commissioner (Appeals) allowed the Department Appeals setting aside the

Orders-in-Original passed by the Lower Adjudicating Authority (LAA) sanctioning part of refunds and also partly rejecting refund claims under Notification No.41/2012-ST dated 29.06.2012.

2. Brief facts of these appeals are as follows: -

2.1 The Appellant is engaged in the manufacture and export of ready-made garments. They filed five refund claims of service tax paid on input services used for export of goods for the period January 2014 to March 2015. These claims were initially filed under Notification No. 27/2012-CE, instead of Notification No. 41/2012-ST, due to a clerical mistake committed on the part of the appellant.

2.2 The Original Authority rejected the claims. The Commissioner (Appeals) also rejected the appeals. On further appeal, this Tribunal, *vide* Final Orders Nos. 40767–40771/2023 dated 09.07.2023, remanded the matter for fresh consideration under Notification 41/2012-ST.

2.3 Upon remand, the Assistant Commissioner processed the claims under Notification 41/2012-ST, partly sanctioning refund and rejecting the balance. The Commissioner (Appeals) affirmed the rejections and also set aside the refund sanction orders on the basis of appeals filed by the Revenue.

2.4 The rejections fall under two categories: -

(a) Certain input services *viz*., Courier, Renting, Security, Telephony, Professional/IT, Maintenance, C&F *etc*. held as not used beyond the place of removal and hence not "specified services" and,

(b) certain portions of the claim were treated as time-barred or relating to different quarters.

3. Being aggrieved, the Appellant has filed these Appeals before this forum.

4. The Ld. Consultant Mr. M. Ponnuswamy, appearing for the appellant submitted as follows: -

i. The definition of "specified services" in Notification No.41/2012-ST was retrospectively widened by Notification No.1/2016-ST so as to include services used "beyond the factory or any other place or premises of production or manufacture" (thus covering head-office/corporate office services used in connection with export);

ii. The impugned rejections are based on the pre-amendment interpretation and therefore unsustainable;

iii. The time-bar or quarter-wise rejections are incorrect because Notification No.41/2012 allows claims within one year of export and does not impose the quarter-wise filing restrictions of Notification No.27/2012 CE; and

iv. The Principal Bench of CESTAT's decision in Bharat Mines & Minerals support the Appellant's position.

5. The Ld. Authorized Representative Mr. M. Selvakumar defended the rejections on the basis that (i) several of the services were used within the factory/place of manufacture (i.e. not beyond the place of removal) and therefore do not qualify as "specified services"; (ii) some invoiced amounts were not claimed within one year from the date of export; (iii) certain invoice timing/quarter mismatches render those heads non-eligible; and (iv) the Asst. Commissioner's (RSA) factual findings in the O-in-O refusing parts of the claim ought to be sustained.

6. We have heard both the sides and examined the Appeal records.

7. The following issues arise for our consideration: -

i. Whether, in view of Notification No.1/2016-ST amending Notification No.41/2012-ST, the term "specified services" include input services used at head office/corporate office (i.e. places other than the factory/place of manufacture) for the export of goods, and therefore whether services such as renting of immovable property, telephony, security, professional/IT services, repair & maintenance and C&F services *etc.,* used at the head office qualify for refund?

ii. Whether the lower authorities were justified in rejecting portions of the claim on the ground of time-bar (i.e. filed after one year from date of export) or because certain invoice amounts belonged to quarters other than the quarter for which refund was sought?

8. We have carefully considered the rival submissions, examined the documents, and perused relevant notifications and the case laws relied upon and our findings follow in seriatim.

9. We find that Notification 1/2016-ST substituted the definition of "specified services" to mean: -

> *"Taxable services that have been used beyond the factory or any other place or premises of production or manufacture of said goods for their exports."*

This amendment is expressly given retrospective effect from 01.07.2012 vide clause 157 of the Finance Bill 2016. It is therefore clarificatory and applicable to the period of dispute.

The rejection based on the old phrase "beyond the place of removal" is therefore legally untenable.

10. The Appellant relied upon the decision of the Principal Bench in the case of *Bharat Mines & Minerals v. CCE, Dehradun, 2020 (38) GSTL 101 (Tri.-Del.).*

11. We have perused the aforesaid decision and find that in Para 11 and 12 of Order it has been held that: -

> *"**11**. In view of the entire above observations, I am not convinced with the findings of the adjudicating authority below who have created a concept of pre and post export/clearance services. Whereas the specified services in the impugned notification, to my opinion, are the services irrespective pre or post export/clearance but those which are beyond place of production or manufacture.*
>
> ***12**. The order accordingly is held to be a result of wrong interpretation of the relevant notification, accordingly, is hereby set aside. As a result, thereof three of the impugned appeals stand allowed.*

We find that Paras 11–12 of the judgment expressly reject the notion of "pre-export" vs. "post-export" segregation, holding the test simply is as whether the service is used beyond the place of manufacture and for export.

The ratio directly applies to this case.

12. The Appellant submitted that their Head Office at Chennai performs essential export-related functions like order receipt and processing; design and quality

coordination; communication with foreign buyers; export documentation & compliance; and logistics coordination.

13. The Appellant also submitted that the Services such as renting of premises, telecommunication, security, professional/IT consultancy, C&F support, repair & maintenance *etc*. are used at their head office in Chennai and are integral to the export process.

14. Based on our above findings and the ratio of the aforesaid decision, we hold that all such services used beyond the factory premises qualify as "specified services," subject to documentary verification of nexus with exports.

15. While the legal eligibility is established, we observe that detailed invoice-wise verification has not been carried out. The Appellant must demonstrate as to the authenticity of invoices, nexus with export-related activities and filing within one year of the date of export. As no invoices/SB's are placed before us, for verification, this aspect requires remand.

16. We find that Notification No. 41/2012-ST imposes only one condition i.e. the claim must be filed within one year from the date of export. There is no quarter-wise

restriction (unlike Notification 27/2012-CE). Thus, an invoice pertaining to another quarter cannot be rejected if the claim is filed within one year of export and the nexus is shown.

17. We find that the LAA erred by importing the procedural framework of Notification No. 27/2012-CE and the absence of specific invoice/shipping bill-wise reasons in the impugned order strengthens the Appellant's case. Accordingly, the findings on time-bar and quarter-wise mismatch are unsustainable and this aspect also requires remand.

18. Finally, we conclude that Notification No. 1/2016-ST applies retrospectively and expands the meaning of "specified services." Services used at Head Office/corporate office for export qualify for refund. The impugned rejection of HO-related services is contrary to law. The rejections based on time-bar or quarter mismatch are legally unsustainable and requires to be verified in light of our above directions.

Therefore the matter requires limited remand for verification of documents and nexus with Exports.

19. The Impugned Orders-in-Appeal Nos. 52-56/2021(CTA-I) dated 16.04.2021, insofar as they reject refunds on the basis of the pre-2016 interpretation of

Notification No. 41/2012-ST or on quarter mismatch/time-bar grounds, are set aside.

20. The matters are remanded to the Lower Adjudicating/Refund Sanctioning Authority (LAA/RSA) for limited verification of invoice authenticity, nexus with export of goods and filing within one year of the relevant export(s).

21. Upon being satisfied after verification, the LAA/RSA shall sanction the refund for all such head-office/corporate-office services, applying Notification No. 41/2012-ST as amended by Notification No. 1/2016-ST, and not the pre-amendment view.

(a) Verification and fresh orders shall be completed within 90 days of receipt of this Order after following the principles of natural justice.

(b) Refund, if due, shall be disbursed with interest as admissible in law.

22. Thus, the Appeals are allowed on the above terms and remanded with directions.

(Order pronounced in open court on 02.02.2026)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)

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