CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH- COURT NO. 4

SERVICE TAX APPEAL No. 51243 of 2025

(Arising out of Order-in-Appeal No. 12/ST/DLH/2025 dated 19.04.2025 passed by the Commissioner (Appeals-I), CGST, New Delhi)

Forrester Research India Private Limited ....**Appellant**

Versus

Principal Commissioner of CGST Delhi East ....**Respondent**

APPEARANCE:
Shri Atul Ninawat, advocate for the appellant
Shri Kuldeep Rawat, authorised representative of the department

CORAM : HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)

Date of Hearing : 17.02. 2026
Date of Decision : 16.03.2026

FINAL ORDER NO. 50362/2026

DR. RACHNA GUPTA:

Present order disposes of two appeals, pertaining to the Forrester Research India Private Limited, the appellant, involving the same issue and arising out of similar orders. The facts relevant for the adjudication are as follows.

'M/s Forrester Research India Pvt Ltd, the appellant herein, is registered with Service Tax Department for providing various taxable services as that of rent-a-cab operator service, manpower supply agency service, business

auxiliary service, legal consultancy and 119 other taxable services.'

2. The appellant had filed the refund claim of CENVAT credit in terms of notification number 27/2012 dated 18.06.2012 issued under rule 5 of CENVAT Credit Rules, 2004. The refund of Rs. 1,40,291/- is with respect to common area maintenance service, the refund of Rs. 5,880/- is towards operational charges for vending machine service, the refund of Rs. 5,880/- is towards photography service and refund of Rs. 2,772/- is towards travel agent service (total amount claimed is Rs. 1,54,823/-).

3. The appellant was also denied to be a distinct person than the service recipient Forrester Research Inc (USA), herein after refered as FRLON, the transaction between them is denied to be treated as Export of Service. The CENVAT credit amounting to Rs. 11,60,206/- was also alleged to be not available to the appellant. Based on the said investigation, vide show cause notice no. 01/KBS/Legacy Refund//Div-Gandhi Nagar-2022 dated 08.04.2022, the total amount of CENVAT credit of Rs. 13,15,030/- (11,60,206+1,54,821) is proposed to be disallowed. The said proposal has been confirmed. Vide Order-in-Original no. 423/2024-25 in appeal no. 51244/2025 and Order-in-Original no. 424/2024-25 in appeal no. 51243/2025, both dated 13.12.2024. Appeals against both the said orders have been rejected vide common Order-in-Appeal no. 13/2025 dated 29.04.2025 being aggrieved, the appellant is before this Tribunal,

4. I have heard Shri Atul Ninawat, learned counsel for the appellant. He mentioned that the definition of input services as given under rule 2(l) of CENVAT Credit Rules, 2004 has wrongly been interpreted by Commissioner (Appeal) and even by the original adjudicating authority while denying the available CENVAT credit as eligible and denying the refund thereof.

5. With respect to the CENVAT credit of common maintenance area services, it is mentioned that the service is indirectly related to the output service rendered by the appellant as the absence of said service will adversely impact the quality and efficiency of the provision of service exported. Hence, the service should be considered as eligible input service. Decision of this Tribunal, Bangalore bench, in the case of **General Motors Technical Centre India Pvt Ltd vs. Commissioner of Central Tax in Service Tax Appeal No. 20400/2020 dated 01.04.2021 along with CBEC circular no. 120/01/2010 dated 19.01.2010** is relied upon.

6. With respect to operation charges for vending machine service, it is mentioned that the machine was for the employees of the appellant and was essential for the efficiency of employees who were engaged in providing output services. Hence, this was also indirectly in relation to the output service. The refund of CENVAT credit vis-à-vis for the Photography service period of July 2016 to September 2016 is mentioned to have not been claimed by the appellant. The Travel Agent service is mentioned to have been availed for the business travel of its employees/management personnel. Hence, it mentioned that the same is wrongly denied to be the eligible input service. It is

also submitted that appellant has charged for its services on a cost plus 20% mark up basis. As the cost of input services becomes part of the cost of output services, such services have to be treated as eligible input services for the purpose of CENVAT credit. Decision of this tribunal in the case of **CST vs Convergys India Pvt Ltd reported as 2009(21) STT 67** is relied upon.

7. While submitting about the denial of appellant and FRLON to be the distinct person, the definition in sub-clause 3(b) of clause (44) of section 65(B) of Finance Act, 1994 is relied upon. The appellant and FRLON are mentioned to be two separate companies of different persons. Appellant is a private company registered in India and FRLON is a company registered under London laws. Though, they both belong to a big group with parent company in USA and several subsidiary companies in many countries across the world but managed by different professional people. Hence, both the entities were a distinct person and the services provided by the appellant to FRLON, therefore, amounts to Export of Service. The appellant is thus entitled for the CENVAT credit of the service tax paid under reverse charge mechanism. The same has wrongly been denied. While relying upon the following decisions. Learned counsel has prayed for the orders under challenge to be set aside and the appeal be allowed:

   i) General Motors Technical Centre India Pvt Ltd. vs Commissioner of Central Tax in appeal no. 20400 of 2020 dated 01.04.2021;

ii) CGST vs Convergys India (P) Ltd. reported as [2009] 21 STT67; and

iii) M/s Kijiji India (P) Ltd vs Commissioner of Central Excise, Mumbai-I reported as 2012(12)TMI825.

8. Learned DR on the other hand has reiterated the findings arrived at by Commissioner (Appeal) in the impugned order. It is submitted that the original adjudicating authority has meticulously examined and discussed the definition of Input Services while refusing the impugned refund. Based on these findings, both the appeals are, therefore, prayed to be dismissed.

9. Having heard both the parties, I frame two issues to be adjudicated as follows:

(i) Whether the services in the nature of common area maintenance service, vending machine operation service, photography service, and travel agent services, can be called as eligible input service; and

(ii) Whether the appellant and FRLON are the establishments of distinct purposes for the service transaction between them to be classified as Export of Service.

10. For adjudication of both the issues, foremost we need to look into the definition of input service. Rule 2(l) of the CENVAT Credit Rules, 2004 define input services as follows:

"Rule 2 Definition-

(l) —input servicel means any service, -

(i) used by a provider of [output service] for providing an output service; or

(ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal,

and includes services used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal. But excludes...”

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11. The perusal of the provision makes it clear that any service to fall under this said definition should have a direct or indirect relation to the manufacture of final products and clearance thereof, upto the place of removal or to the Output Service. The perusal also makes it clear that the definition is categorized with an inclusion clause. Hence, all the services mentioned specifically under the said inclusion clause are the eligible input services. There is an exclusion clause also to specifically exclude certain taxable service as are mentioned in the said clause. Apparently, the services in question are neither covered under the inclusion clause nor under the exclusion clause.

12. It is observed that the adjudicating authority below has denied common area maintenance service to be the eligible service on the ground that the same is not covered under the inclusion clause. It has also been held that the services for being the eligible input service should have a direct nexus with the output services. However, from the above observation about the definition of input service, the said findings in the order under challenge are apparently, wrong. As per the definition under Rule (l) of CENVAT Credit Rules, its not merely the direct nexus of the services rendered but the indirect one also to the Output Service makes such service as eligible Input Service.

13. The maintenance services were provided for the upkeep of common areas in a commercial or multi-family property, where the business premises of the service recipient exists. It can be judicially noticed that the business activity cannot be rendered with ease in the unmaintained premises. This observation is sufficient to hold that the common area maintenance has an indirect nexus to the output service of the appellant. Otherwise also, there is no need for one-to-one correlation between the input services and the output services, as has been held by this Tribunal in the case of **General Motors Technical Centre India Pvt Ltd** in Service Tax Appeal no. 20400 of 2020 decided vide final order no. 20100 of 2021 dated 01.04.2025. Further, it has reasonably been clarified by the department itself vide the circular dated 19.01.2010 relied upon by the appellant that if the absence of any service adversely impact the quality and the efficiency of the provision of service exported, it should be considered as eligible input service. Hence, it is held that the

common area maintenance service has wrongly been denied to be the eligible service. So is true for the remaining other services, i.e. vending machine service and travel agent service, which were meant for the employees of the appellant but in relation to providing the output service. The vending machine was for ease of the employees, the travel agent service was for business travel. In the light of the same reasoning as taken above, the services in question no. 1 are held to be eligible input services for availment of CENVAT credit. Such unutilized CENVAT credit is wrongly denied to be refunded. With these observations, issue number 1 stands decided in favour of the appellant and against the department.

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14. The CENVAT credit vis-à-vis export of service has been denied to the appellant, relying upon sub rule 1(f) of rule 6A of Service Tax Rules, 1994. Sub clause (f), thereof reads as follows:

> "(f) the provider of service and recipient of service are not merely establishments of a distinct person in accordance with item number (b) of Explanation 3 of clause 44 of section 65(B) of Finance Act."

15. Explanation 3 item B reads as follows:

> "in establishment of a person in the taxable territory and any of his establishment in a non-taxable territory shall be treated as establishment of distinct persons."

16. The adjudicating authority below has denied the applicability of said provisions. However, from the above provision it becomes clear that an establishment of a person in a taxable territory

and an establishment of any other person in a non taxable territory shall not be treated as the establishment of a distinct person. But in the present case, appellant and FRLON are two separate companies. The certificates of incorporations are annexed on record of the appeal memo. The power to take major policy decision is vest with the Board of Directors. Just because one of the Directors is a common Director, the adjudicating authorities have wrongly denied appellant and FRLON to be distinct persons.

17. It has also been brought to notice that the department, for the previous quarter, had sanctioned the refund filed by the appellant accepting the fact that the transaction between the appellant, the provider of output service and FRLON/foreign client, the recipient of service duly complied with the conditions given under rule 6(A)(1)(f) of Export of Service Rules, 1994. It is apparent from Order-in-Original number 30/AC/VS/2023-24 dated 25.04.2023 of Assistant Commissioner (division MCIE).

18. Hon'ble High Court of Gujarat in the **Linde Engineers Private Limited vs Union of India in SCA No. 12626/2018 vide judgment dated 16.01.2020** has held that the petitioners and holding companies located outside India/non-taxable territories are to be treated as distinct person and the transaction between them shall be qualified to be called as Export of Service in terms of rule 6(A)(f) and explanation 3(b) to section 65(v)(44) of Finance Act. in the present case the appellant/service provider is in India, whereas FRLON, the service recipient is located in non-taxable territory, irrespective both being the holding companies, the service provider is in

compliance of Rule 6A(f) of the Service Tax Rules, 1994. The transaction between the two, therefore, amounts to Export of Service. In light of the above discussion, the issue number 2 also stands decided in favour of the appellant and against the department.

19. In totality of the adjudication on both the above framed issues to be answered in favour of the appellant that the order under challenge is, hereby set aside and consequently both the appeals are allowed.

(Pronounced on 16/03/2026)

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

Apoorva