

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD**

Division Bench – Court No. – I

Service Tax Appeal No. 31258 of 2018

(Arising out of Order-in-Appeal No. HYD-EXCUS-SC-AP2-037-038-18-19-ST dt.26.06.2018
passed by Commissioner of GST & Central Excise (Appeals-II), Hyderabad)

M/s GE India Industrial Pvt Ltd

(Formerly GE India Exports Pvt Ltd)
Unit # 06-01, Block 1, 6th Floor, Cyber Pearl,
HITECH City, Madhapur, Hyderabad – 500 081

.....Appellant

VERSUS

**Commissioner of Central Tax
Rangareddy - GST**

1-98-7-43, VIP Hills, Jaihind Enclave,
Madhapur, Hyderabad – 500 081

.....Respondent

AND

Service Tax Appeal No. 31259 of 2018

(Arising out of Order-in-Appeal No. HYD-EXCUS-SC-AP2-037-038-18-19-ST dt.26.06.2018
passed by Commissioner of GST & Central Excise (Appeals-II), Hyderabad)

M/s GE India Industrial Pvt Ltd

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Unit # 06-01, Block 1, 6th Floor, Cyber Pearl,
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.....Appellant

VERSUS

**Commissioner of Central Tax
Rangareddy - GST**

1-98-7-43, VIP Hills, Jaihind Enclave,
Madhapur, Hyderabad – 500 081

.....Respondent

Appearance

Shri Ashwani Pahwa, Advocate for the Appellant.

Shri Ch. Venkat Reddy & Shri M. Anukathir Surya, ARs for the Respondent.

**Coram: HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)**

FINAL ORDER No. A/30283-30284/2026

Date of Hearing: 20.01.2026

Date of Decision: 15.05.2026

[Order per: A.K. JYOTISHI]

M/s GE India Industrial Pvt Ltd (hereinafter referred to as appellant)
are in appeal against OIA dt.26.06.2018, whereby, the Commissioner

(Appeals) has decided the appeals filed by appellant as well as department against OIO dt.06.11.2017 by rejecting the appellant's appeal and allowing the departmental appeal.

2. The brief facts are that the appellant filed refund for Rs.78,80,701/- on 27.07.2017 for the period July, 2016 to September, 2016. However, the Refund Sanctioning Authority (RSA) sanctioned only Rs.40,94,522/-. The Commissioner (Appeals) upheld the rejection and also simultaneously allowed the departmental appeal for setting aside the sanctioned refund of Rs.40,94,522/-. Therefore, the entire refund claim of Rs.78,80,701/- stands rejected.

3. The issue involved in this case is whether there is time bar in filing refund claim under Rule 5 of Cenvat Credit Rules (CCR), 2004, read with Notification No. 27/2012-CE (NT) dt.18.06.2012 or otherwise. The fact is that the appellants have been filing periodical refund claims on a quarterly basis. The RSA rejected a part of the claim i.e., in respect of 3 claims where the remittances were received by them beyond one year period from the date of filing refund and therefore, clearly time barred in terms of Notification No. 27/2012, which amended Rule 5, covering specifically the case of export of service. Therefore, the issue was whether this one year is to be counted from the date of remittance received, as the plain reading of the notification suggests or it has to be counted from the last date of the quarter for all the remittances received during that quarter in respect of which refund claim has been made. This determination would be necessary as any remittances beyond one year will also get excluded from the total export turnover in terms of formula prescribed for grant of refund, as has been done by the department.

4. Learned Advocate has relied on the judgment of Larger Bench in the case of CCE & CST, Bengaluru Vs M/s Span Infotech (India) Pvt Ltd [2018 (2) TMI 946 – CESTAT Bangalore (LB)], as also orders of other Benches, as under, in support that computation of one year has to be from the last date of the quarter and not from the actual date of remittance received. Insofar as second issue is concerned, refund was initially allowed by the RSA, however, it was later rejected by the Commissioner (Appeals) and against which, the appellants have come in appeal. Both rejection of refund on grounds of limitation and on the grounds of non-furnishing of BRC has been

decided by the common order of the Commissioner (Appeals) (impugned order). Learned Advocate submits that they had submitted FIRC, whereas department insisted on submitting BRC. However, what is important is to submit evidence in support that foreign exchange remittance has been received vis-à-vis export of service under the cover of a particular invoice. Learned AR points out that apart from this, they were not able to correlate FIRC with individual claims and export of service as FIRC did not contain details of invoices in relation to which remittances have been received. This aspect needs to be examined especially when now they are in the possession of BRC also and a correlation has to be established between the export of service and receipt of foreign exchange.

5. Learned AR has also pointed out that there are certain invoices, which are clearly beyond even the quarter for which refund has been filed and therefore, that cannot be considered for refund. Whereas, learned Advocate has submitted that from the OIO, it is apparent that only remittances, which were received during the quarter, have been considered for filing claim and department has only rejected 3 claims, which were beyond one year period but within the quarter.

6. Heard both sides and perused the records.

7. The two issues to be decided in this case are as under.

- a) Whether date of one year has to be taken from the date of receipt of remittance or from the last date of the quarter for which refund is filed.
- b) Whether refund can be granted based on FIRC also or otherwise and whether there is any need to corroborate the remittances with the actual export or otherwise.

8. Insofar as first issue is concerned, we find that this has to be decided in terms of Notification 27/2012 dt.18.06.2012, which specifies the procedure, safeguards, conditions and limitations regulating refund. As per the provision of Rule 5(1)(D), the claim of refund has to be filed by the service provider before the expiry of one year from the date of receipt of payment in convertible foreign exchange. The department has noticed that during the relevant period i.e., July, 2016 to September, 2016, the refund claim under Form A has been filed on 27.07.2017, whereas, one year period

has expired on 30.06.2017. Therefore, such claims are beyond the limitation prescribed in the notification and the Rules. Learned Advocate for the appellant has essentially submitted that while the department is contesting that some of the invoices are beyond one year, the same would not be beyond one year if the last date of the quarter is taken into consideration for computing one year period. In this case, we find that learned Advocate has relied on the judgment of Hon'ble Karnataka High Court in the case of M/s Suretex Prophylactics India Pvt Ltd & ors Vs CCCE & ST, Bangalore-I [2020 (373) ELT 481 (Kar)] in support that the time limit has to be computed from last date of the last month of the quarter, which would be the relevant date for the purpose of examining if the claim is filed within the limitation prescribed under section 11B or otherwise. We find that in this case, the claim pertains to the period post amendment i.e., after 01.03.2016, whereby, the Notification No. 14/2016 dt,01.03.2016, inter alia, provided the time within which the claims have to be filed by the service exporters. We have perused the Notification No. 14/2016, which has made certain amendments in the earlier notification 27/2012. The said notification made certain amendments as regards certain procedures and limitation, etc. the amendment, which is relevant for the present appeal concerns the relevant date for service provider. As per this amendment, the claim has to be filed before the expiry of one year from the date of receipt of payment in convertible foreign exchange, where provision of service had been completed prior to receipt of such payment or issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice. Therefore, there is now a specific time limit prescribed for service provider within which refund claim has to be filed. We do not find any merit in the submission made by the appellant that it should be last date of the quarter in view of very specific provision of limitation made for service provider, as distinct from manufacturer in terms of Notification No. 14/2016 dt.01.03.2016, where limitation under section 11B has been made applicable. We therefore, find that a plain reading of notification clearly requires them to file refund claim within one year from the date of receipt of convertible foreign exchange.

9. The case laws relied upon by the appellant are distinguished on facts, inasmuch as they have not considered the issue of refund in respect of service provider for period beyond 01.03.2016. The judgment of the Larger

Bench in the case of CCE & CST, Bengaluru Vs M/s Span Infotech (India) Pvt Ltd (supra) dealt with the provisions under Notification No. 27/2012 dt.18.06.2012, whereas, in the present appeal, provisions as amended post 01.03.2016 are applicable.

10. Insofar as second issue is concerned, we find that the receipt of foreign exchange is not in dispute, however, what is in dispute is the document evidencing such payment. The department is of the view that as per circular dt.12.03.2009 prescribes for acceptance of FIRC in lieu of BRC is not relevant as the refund claim pertains to the period 2016-17, where, as per Notification No. 27/2012, which governed the grant of refund, it required production of BRC. Essentially, the department felt that the appellant has produced FIRC and not BRC and therefore, on this ground alone, they are not inclined to grant refund as it is not strict compliance of the provisions. They have also pointed out that there are certain discrepancies even in the copy of FIRC correlating it to invoices on which remittances were received. We find that essentially foreign exchange has to be received in respect of exports made by the appellant for him to become eligible for refund. The documents required evidencing the receipt of the payment can be either FIRC or BRC, however, what is crucial is that the said document should categorically indicate that foreign exchange has been received in respect of said invoices under the cover of which export of service has taken place. This would require corroboration. Therefore, we find that this aspect has to be examined by RSA based on documents to be submitted by the appellant to arrive at the conclusion whether remittances have been received in respect of the invoices under the cover of which export of service has taken place.

11. Therefore,

- a) Insofar as first issue is concerned, we hold that the limitation has to be counted from the date of receipt of remittances and not from the last date of the quarter.
- b) Insofar as second issue is concerned, evidence of receipt of foreign exchange can be in the form of FIRC or BRC or both, as long as there is corroboration with invoices in respect of which refund has been claimed.

12. With these directions, the matter is remanded back to the original Refund Sanctioning Authority to decide the refund claim.

13. Appeals are allowed by way of remand.

(Pronounced in the Open Court on 15.05.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)