

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

**Service Tax Appeal No. 60427 of 2016**

[Arising out of Order-in-Appeal No. 85-ST-APPEAL-II-MK-GGN-2016 dated 22.06.2016 passed by the Commissioner (Appeals), Service Tax, Delhi]

**M/s Nokia Solutions and Networks India Private Limited** .....Appellant

7<sup>th</sup> Floor, Tower-a, building No. 9a  
Df Cyber City, Phase-iii  
Gurgaon, Haryana 122002

*VERSUS*

**Commissioner of Central Goods & Service Tax, Gurgaon I** .....Respondent

Plot No. 36-37, Sector 32,  
Gurgaon, Haryana 122021

**APPEARANCE:**

Shri Deepak Thackur, Advocate for the Appellant  
Shri Siddharth Jaiswal and Shri S.K. Meena, Authorized Representatives  
for the Respondent

**CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)  
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 60407/2026**

DATE OF HEARING: 27.02.2026  
DATE OF DECISION: 01.07.2026

**S.S. GARG:**

The present appeal is directed against the impugned order dated 22.06.2016 rejecting the refund claim amounting to Rs. 2,27,14,436/- filed by the appellant for the period July 2012 to

September 2013 on the ground that the refund claims are hit by limitation prescribed under Notification 40/2012-ST dated 20.06.2012 and Notification No. 12/2013-ST dated 01.07.2013.

2. Briefly the facts of the present case are that the appellant is registered under a Special Economic Zone and during the relevant period the appellant had received certain input services for its authorized operations. It is undisputed that the appellant had received approval from the Approval Committee with respect to services used in relation to authorized operations. As per the Notification No. 40/2012 dated 20.06.2012 and Notification No. 12/2013 dated 01.07.2013 the services provided to the appellant and Special Economic Zone unit are exempted and SEZ unit eligible to seek refund of tax paid on the services received by it; accordingly, the appellant being an SEZ unit, filed the following refund claims of service tax paid on specified services:

<b>S. No.</b>	<b>Period of refund</b>	<b>Amount of refund claimed</b>	<b>Date of filing refund</b>
1.	July 2012 to September 2012	34,21,812/-	26.02.2015
2.	October 2012 to December 2012	57,67,752/-	26.02.2015
3.	January 2013 to March 2013	43,50,952/-	26.02.2015
4.	April 2013 to June 2013	43,44,153/-	26.02.2015
5.	July 2013 to September 2013	48,29,767/-	27.11.2014
<b>Total</b>		<b>2,27,14,436/-</b>	

Thereafter, respondent/Department issued Deficiency Memo dated 14.09.2015 with respect to the above refund claims wherein one of

the discrepancies was that the refund claims are time-barred being hit by limitation prescribed under Notification No. 12/2013 dated 01.07.2013. Thereafter, the appellant duly replied to the Deficiency Memo by explaining that there was a reasonable cause for delay in filing the refund claims and an application for condonation of delay was also submitted along with the refund claims. After following the due process, the adjudicating authority rejected the refund claims filed by the appellant vide Order dated 29.12.2015 on the ground that certain conditions of the Notifications are not fulfilled, merely invoices related to input services and documentary proof that specified services are wholly consumed within the SEZ Unit has not been provided and the refund claims are time-barred as the time period to file a refund claim is one year according to the above Notifications. Aggrieved by the said order, the appellant filed the appeal before the appellate authority who vide impugned order rejected the appeal on the sole ground that the refund claims were barred by limitation, in terms of the one-year period prescribed under Notification No. 40/2012-ST and Notification No. 12/2013-ST.

2.1 It is pertinent to note here that other grounds in the Order-in-Original were dropped and only the ground of limitation remains. Aggrieved by the said order, the appellant has filed the present appeal.

3. Heard both the parties and perused the material on record.

4. The learned Counsel for the appellant submits that the impugned order is not sustainable in law and is liable to be set aside

as the same has been passed without properly appreciating the facts and the law; and binding judicial precedents. He further submits that the only issue in the present appeal is whether the time limit prescribed under Notification No. 40/2012 and Notification No. 12/2013 are mandatory in nature. He further submits that the provisions of Special Economic Zone, Act has an overriding effect over the provisions of Finance Act, 1994 and hence, any exemption notification and conditions therein are not enforceable and therefore, the refund claims filed by the appellant should have been allowed. He further submits that Section 26(1) of the SEZ Act provides for exemptions, drawbacks and concessions to every developer and entrepreneur and clause (e) of Section 26(1) provides exemption from service tax leviable under Chapter V of the Finance Act, 1994 on the taxable services provided to a developer or unit to carry on the authorised operations in a Special Economic Zone. Further, the Section 26(2) states that the Central Government may prescribe the manner, terms and condition subject to which such exemption shall be granted. He further submits that the terms and conditions subject to which the exemptions are to be granted under subsection (1) of section 26 should be prescribed by the Rules made by the Central Government under the SEZ Act, 2005 and as per Rule 22 in the SEZ Rules, 2006 issued in exercise of the power conferred by section 55 of the SEZ Act which prescribed such conditions. He further submits that there is no dispute about the fact

- (1) that the Appellant has complied with the provisions contained in rule 22 of the SEZ Rules, 2006, and
- (2) that Rule 22 of the SEZ Rules, 2006 does not stipulate any limitation period to file the refund claim.

4.1 He further submits that in the Order-in-Original dated 29.12.2015, it has been noted that appellant had received approval from the Approval Committee with respect to services used in relation to authorized operations. He further submits that Section 93 of the Finance Act, 1994 provides general power of exemption and has no mention of SEZ in specific. Further. Section 51 of the SEZ Act provides that the provisions of the SEZ Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. He also submits that SEZ Act has an overriding effect over the Finance Act and limitation prescribed under Notification No. 40/2012 and Notification No. 12/2013 issued under Section 93 of the Finance Act has no application. Learned Counsel further submit that the said Notifications have been set aside by the judgment of Hon'ble Telangana and Andhra Pradesh High Court in the case of ***M/s GMR Aerospace Engineering Limited and Another vs. Union of India reported in 2019 (8) TMI 748-Telangana and Andhra Pradesh High Court*** which was finally affirmed by the Hon'ble Supreme Court as reported in 2019 (7) TMI 1975 (SC). He further submits that this issue is no more res integra and has been consistently held by different Benches of this Hon'ble Tribunal that

the SEZ Act has an overriding effect over the provisions of Finance Act, 1994 and therefore, the conditions prescribed in the Notifications are redundant. For this submission, the learned counsel has relied upon the following decisions:

- *GMR Aerospace Engineering Limited and Another vs. Union of India [2019 (8) TMI 748-Telangana and Andhra Pradesh High Court]*
- *Union of India vs. GMR Aerospace Engineering Limited [SLP(C) Diary No. 22140/2019]*
- *Cummins Turbo Technology vs. Commissioner of Customs, Central Excise & Central Tax, Indore [2023 (12) CENTAX 334 (Tri. Del.)]*
- *Commissioner of Central Excise & Service Tax, Ujjain vs. Cipla Limited [2024 (7) TMI 1358-CESTAT New Delhi]*
- *DLF Assets Pvt. Ltd. vs. Commissioner of CGST & Central Excise, Delhi East [2024 (8) TMI 13-CESTAT New Delhi]*
- *DLF Assets Pvt. Ltd. vs. Commissioner of Service Tax, Delhi-1 [2021 (45) G.S.T.L. 176 (Tri. Del.)]*
- *Eclerx Services Limited vs. Commissioner of CGST & Central Excise, Navi Mumbai [2022 (9) TMI 166-CESTAT Mumbai]*
- *Commissioner of CGST, Navi Mumbai vs. Eclerx Services Limited [Civil Appeal No. 549 of 2023]*

- *Adani Power Mundra Ltd. vs. Commissioner of C.E., Ahmedabad-I [Service Tax Appeal No. 10480 of 2022]*
- *M/s Accenture Solutions Pvt. Ltd. vs. Commissioner of Service Tax-VII, Mumbai [2025 (3) TMI 1505-CESTAT Mumbai]*
- *Shapoorji Pallonji & Company Ltd. vs. Commissioner of Central Excise, Customs & Service Tax, Nagpur-1 [2025 (6) TMI 1264. CESTAT Mumbai]*
- *M/s Lanco Solar Pvt. Ltd. vs. Commissioner, Central Tax, Central 1 Excise, Customs [Service Tax Appeal No. 52078 of 2018]*
- *Wabco India Ltd. vs. Commissioner of GST & C. Ex., Chennai [2021 10 (54) G.S.T.L. 37 (Tri. Chennai)]*
- *M/s ATC Tyres Pvt. Ltd. vs. Commissioner of GST & Central Excise, 16 Tirunelveli [2021 (3) TM1 681-CESTAT Chennai]*
- *Himatsingka Linens vs. Commissioner of Central Tax, Mysuru 17 Commissionerate [2019 (1) TMI 1440-CESTAT Bangalore]*
- *Metlife Global Operations Support Center (P.) Ltd. vs. Commr. Service 17 Tax, New Delhi [2021 (46) G.S.T.L. 418 (Tri. Del.)]*

4.2 He further submits that the position of law that SEZ Act has overriding effect over the Finance Act and Notification issued thereunder is a settled proposition of law and this Tribunal in the

case of ***M/s Sapiient Consulting Pvt. Ltd. Vs. Commissioner of Service Tax, Delhi Iv 2025 SCC Online CESTAT 4032*** has affirmed this principle; wherein this Tribunal has held in para 6 as under:

6. We have considered the submissions made by both the parties and perused the material on record as well as the various decisions relied upon by the Appellant... Besides this, we also find that as per the SEZ Act, there is a complete exemption for the services provided to a developer or a unit and there is no condition prescribed under any notifications/circulars of Service Tax Regime that rules or regulations of Service Tax will hamper the Appellant to claim the refund as held in the cases of GMR Aerospace Engineering Ltd (supra) and DLF Assets Pvt Ltd (supra). We further find that as per the settled law, the SEZ Act and the SEZ Rules have an overriding effect over the provisions of other Act and any condition in Notification dated 01.07.2013 cannot restrict the Appellant for claiming the refund of service tax paid on 'rent a cab service' as the services provided to SEZ unit are exempted under SEZ Act as held in various decisions cited supra.

4.3 He further submits that the stand of the Department that as there is no notification issued under Section 49 of the SEZ Act notifying that provision of Finance Act and its notifications will not apply to SEZ, the restrictions imposed under the Exemption Notification will apply is directly negated by the Tribunal in the above cited judgment in the case of ***M/s Sapiient Consulting Pvt. Ltd.*** He further submits that the operation of Section 51 is

completely different from the operation of Section 49, Section 51 envisages that if there is anything inconsistent in any provision compared to the provision in SEZ Act then, the said provision will not apply to the SEZ Act. Whereas Section 49 provides wide powers to the Central Government to issue a notification that any particular central statute will or will not apply to SEZ; there is no condition that such statute will have to be inconsistent with the SEZ Act. Similar is the submission for Section 50 which empowers State to issue similar policies.

5. On the other hand, learned authorized representative for the Department reiterated the findings of the impugned order and submits that the refund has rightly been rejected on limitation because the appellant has failed to comply with the conditions of the Notification of 40/2012 dated 20.06.2012 and Notification No. 12/2013 dated 01.07.2013 and the said conditions are mandatory in nature to file refund claim with one year from the end of the month in which actual payment of service tax was made by such developer or unit to the Registered service provider or such extended period as the Assistant Commissioner/Deputy Commissioner as the case may be permit. He further submits that it is a fact on record that the disputed refund claims are delayed as per the time limit prescribed under the said Notifications. He further submits that the application seeking condonation of delay in filing the refund claim has been rejected by the AC/DC. He further submits that as per the sub-Rule 5 of Rule 47 of SEZ Rule 2006, it is clear that while claiming refund claim paid on specified serviced received by the SEZ Unit or the

developer the same should be in accordance with the relevant provisions issued under Finance Act or the Notification issued thereunder. He further submits that the appellant have not furnished the documents which are required for processing the refund claim before the adjudicating authority and therefore it was not possible to verify the refund claim of the appellant. He further submits that the verification aspects are not in consistent to the SEZ Act, 2005 and in the absence of the same, admissibility of their refund claim cannot be verified, therefore he has prayed that the matter may be remanded back to the original adjudicating authority. In support his claim the learned AR has relied upon the following decisions:

***(i) Innovative Clad Solutions Pvt. Ltd. Vs CCE & ST, Indore 2019(3) TMI 954-CESTAT New Delhi;***

***(ii) Worldwide Diamond Manufacturers (P) Ltd. Vs Commissioner of C.Ex., S.T. & Customs, Visakhapatnam-II-2018(6) TMI 1301-CESTAT Hyderabad.***

***(iii) Sigma Moulds Nad Stamping Pvt. Ltd. Vs Commissioner of Central Excise Goods and Service Tax, Gurgaon-II-2024(1) TMI 1213- CESTAT Chandigarh.***

6. We have considered the submissions made by both the parties and perused the material on record as well as the various decisions relied upon by both the parties cited (Supra), we find that the only issue involved in the present case is whether the time period prescribed under Notification No. 40/2012 dated 20.06.2012 and

Notification No. 12/2013 dated 01.07.2013 are mandatory in nature and whether the rejection of the refund claim by the learned Commissioner (Appeals) only on the ground of limitation is sustained in law or not? We find that in the impugned order, the Appellate Authority has rejected the refund claim on the sole ground of limitation in terms of one year period prescribed under Notification No. 40/2012 and 12/2013 and dropped other grounds raised by the Original authority regarding the non submission of documentary evidence to verify the invoices and whether the input service have been used for authorized operations or not?

7. Further, we find that it is not in dispute that the appellant is registered in SEZ during the disputed period and has also received certain input services for its authorized operations. Now, the question which arises is whether the time limit prescribed the said Notification is mandatory or not has been considered by the Hon'ble High Court of **Telangana and Andhra Pradesh High Court** in the case of **M/s GMR Aerospace Engineering Limited and Another vs. Union of India**, cited (Supra), wherein, after considering the provision of SEZ Act in detail and the provisions of Finance Act and the Notification 40/2012 and Notification 12/2013 issued under Section 93 of the Finance Act has held in various paras as under:

*"18. In the light of the above admitted facts, the only question that arises for consideration is as to whether the availability of exemptions under section 26 of the SEZ Act would depend not only upon the terms and conditions prescribed under section 26(2),*

*but also upon the terms and conditions prescribed in the notifications issued under various enactments such as Customs Act, 1962, Customs Tariff Act, 1975, Central Excise Act, 1944, Central Excise Tariff Act, 1985, Finance Act, 1994 and Central Sales Tax Act, 1956, etc., enlisted in clauses (a) to (g) of sub-section (1) of section 26 of the Act.*

*30. This is for the reason that section 26(1) of the SEZ Act made the entitlement to certain exemptions subject to provisions of sub-section (2) of section 26. Section 26(1) did not make the entitlement of a developer to certain exemptions, subject to the provisions of something else other than the provisions of sub-section (2). Therefore, the fifth respondent cannot read section 26(1) to mean that the exemptions listed therein are (1) subject to the provisions of sub-section (2) of section 26, and (2) also subject to the terms and conditions prescribed in the Customs Act, 1962, the Customs Tariff Act, 1975, the Central Excise Act, 1944, the Central Tariff Act, 1985 and the Finance Act, 1994. This is especially so, since the authority of the Central Government to prescribe the terms and conditions subject to which exemptions may be granted under section 26(1), flows only out of sub-section (2) of section 26. The word "prescribe" is verb. Generally no enactment defines the word "prescribe". But the SEZ Act, 2005 defines the word "prescribe" under section 2(w) to mean the rules framed by the Central Government under the SEZ Act, 2005. The space is also not left unoccupied, as the Central Government has issued a set of Rules known as "the Special Economic Zones Rules, 2006", wherein the Central Government has prescribed the terms and conditions for grant of*

*exemptions under rule 22. Therefore, there is no question of comparing the terms and conditions prescribed in rule 22 with the terms and conditions prescribed in the notifications issued under any one of five enactments listed in section 26(1) to find out whether there was any inconsistency.*

*32. A combined reading of sections 7, 26 and 50 of the SEZ Act, 2005, would show that the SEZ Act, 2005 speaks of three different types of exemptions. They are-*

*(1) exemption from payment of taxes under the enactments specified in the First Schedule, in respect of goods and services exported out of, or imported into or procured from a DTA by a unit in a Special Economic Zone or a developer under section 7*

*(2) exemption from payment of duties under the Customs Act, 1962, Customs Tariff Act, 1975, Central Excise Act, 1994, Central Excise Tariff Act, 1985, Finance Act, 1994, Finance (No. 2) Act, 2004 and Central Sales tax Act, 1956, covered by section 26(1): and*

*(3) exemption from payment of State taxes, levies and duties covered by section 50, provided there is a State enactment to the said effect.*

*33. The word "prescribe" is used in the present tense in section 26(2) and in the past tense in section 7. Both will have the same meaning as assigned to the word under section 2(w). The moment a set of rules is issued either in respect of matters covered by section 7 or in respect of matters covered by section 26(1), there is no scope for invoking any other law for imposing any other condition.*

34. *The benefit of exemptions granted under the notifications issued under section 93 of the Finance Act, 1994, are available to any one and not necessarily confined to a unit in a special economic zone. Section 93 of the Finance Act, in that sense is a general power of exemption available in respect of all taxable services. But, section 26(1) is a special power of exemption under a special enactment dealing with a unit in a special economic zone. Therefore, the notifications issued under section 93 of the Finance Act, 1994 cannot be pressed into service for finding out whether a unit in a SEZ qualifies for exemption or not.*

38. *Thus, the SEZ Act clearly indicates the persons who are entitled to the benefit of exemptions. The Act also lists out the duties from which exemption is granted. The Act enlists the operations or activities in respect of which exemption is available.*

39. *After prescribing all the above three, in section 26(1) itself, the Act also empowers the Central Government to prescribe in the form of Rules, the manner in which and the terms and conditions subject to which the exemptions are to be granted. Therefore, all the parameters indicated in Girnar Traders [2011] 3 SCC 1 are satisfied in section 26 and the Rules issued thereunder. If the word "prescribe" has not been defined or at least if section 26 had used the words "prescribed under the relevant statutes" the position would have been different.*

45. *Therefore, the writ petition is allowed, the order-in-original dated February 20, 2018 is set aside and the notifications in question in so far as they relate to*

*special economic zones, are set aside. There shall be no order as to costs.*

8. Further, we find that Revenue filed the appeal against the judgment of the Andhra Pradesh High Court in the case of GMR Aerospace Engineering Limited cited (Supra) and the Hon'ble Apex Court dismissed the SLP of the Department and upheld the order of the Hon'ble High Court cited (Supra). We also find that this issue is no more res integra and different Benches of the Tribunal has consistently held that SEZ Act has an overriding effect over the provisions of the Finance Act, 1994 and hence the conditions prescribed under the Notification are redundant. In this regard, we may refer to the few decisions; Cummins Turbo Technology vs. Commissioner of Customs, Central Excise & Central Tax, Indore (2023 (12) CENTAX 334 (Tri. Del.)) wherein, the Tribunal has held as under:

*23. While the SEZ Act itself provided for exemption from service tax (as well as Central Excise duty and Customs duty), exemption notifications were also issued by the Government under the respective laws. These exemption notifications were also issued with some conditions. Thus, there is duplication inasmuch as the goods and services provided to authorised operations of developers and units in the SEZs are exempted from Customs duty, Central Excise duty and the service tax by the SEZ Act itself (subject to the manner which may be prescribed) and there are also exemption notifications under the respective tax laws which are also subject to some conditions. The exemption notification in dispute in*

*this case is service tax exemption notification ST-40/2012 dated 20-6-2013.*

*24. This contradiction and duplication of exemption under the two provisions viz. SEZ Act and Rules and the exemption notifications under the Finance Act, 1994 were discussed at length by this bench in case of DLF Assets [2021 (45) G.S.T.L. 176 (Tribunal)], the relevant extract of which is reproduced below:*

*25. Thus, the legal position is that SEZ Act overrides any other law because of section 51 of the SEZ Act. The question is what part of the tax law have been overridden by the SEZ Act. To answer this question, we proceed to examine the requirement under the Constitution of India to levy taxes and the relevant legal provisions of the Central Excise Act and Customs Act and Chapter V of the Finance Act, 1994 under which Service Tax is levied*

*27. This authority of law to levy and collect taxes is in the form of charging sections of the Acts- such as section 3 of the Central Excise Act, 1944, section 12 of the Customs Act, 1962 and sections 66, 66A and section 66B of Chapter V of the Finance Act, 1994 (for collection of Service Tax). While section 66 provides for levy of service tax on forward charge basis by the service provider, section 66A provides for charge of service on reverse charge basis by the service recipient in case of certain services. Section 66B provides for levy of service tax on all services other than those in the negative list after 2012.*

*28. The levy and collection of these taxes and duties are further modified by some machinery provisions of these Acts, including those which enable the Government to issue exemption notifications. The contradiction is between these three charging sections under which duties or service*

*tax are levied and section 26 of the SEZ Act as per which they are exempted. Section 51 of the SEZ Act overrides the provisions of the other Acts and therefore, service tax is always exempted for the services provided to developers and units in SEZ regardless of any provisions of the Finance Act, 1994. Section 26 of the SEZ Act reads as follows:*

*30. Thus, insofar as supplies for authorized operations of SEZ developers and units are concerned, section 26 of the SEZ Act overrides the charging sections in all the three Acts.*

*31. The charging sections, having been overridden by the SEZ Act, no legal authority to levy and collect central excise duty, customs duty or service tax for goods or services supplied for authorized operations of SEZ developers and units covered by section 26 remains. Without such a legal authority, no tax or duty can be either levied or collected in view of article 265 of the Constitution of India.*

*32. Therefore, there is no need for any exemption notifications under any of these three Acts, nor is it necessary to fulfil any of the conditions laid down in the exemption notifications, if any, issued for the purpose. Thus, the charge of excise duty under section 3 of the Central Excise Act, the charge of customs duty under section 12 of the Customs Act and the charge of service tax under sections 66, 66A and 66B of the Finance Act, 1994 will not apply to goods and services supplied to developers and units for authorized operations in the SEZ areas by virtue of the overriding provisions of the SEZ Act. Any exemption notifications and conditions therein are therefore, redundant because, the Parliament itself has,*

*through the SEZ Act, overridden the charge in the other laws.*

*34. In view of the aforesaid legal position, the exemption notifications issued under the Finance Act, 1994 are redundant because service tax was already exempted by the Parliament by section 26 of the SEZ Act. Any conditions in such notifications are also, therefore, irrelevant and need not be fulfilled. Any amount paid as representing service tax either in the services provided directly to the SEZ units under invoices issued by the service providers or indirectly through the ISD invoices issued by the input service distributor are merely deposits and need to be refunded. They are like the amount deposited during investigations or before succeeding in appeals against demands or fine or penalty which are subsequently set aside. The question is, therefore, answered in favour of the appellant and the appellant is eligible to refund of service tax.*

*35. Since it has been found that the charging sections under the Finance Act, 1994 itself do not apply to SEZ units and therefore the exemption notification itself is redundant, the alternative submission of the appellant that it had fulfilled the conditions mentioned therein including filing it within time or that if there was delay, there was sufficient grounds for condoning it.*

8.1 Further, the Tribunal in case of Commissioner of Central Excise & Service Tax, Ujjain vs. Cipla Limited [2024 (7) TMI 1358-CESTAT New Delhi has held as under:

*2. The respondent is manufacturer and exporter of pharmaceutical products having manufacturing facilities at Indore SEZ During the relevant period, the respondent was*

*availing various services in relation to its authorised operation, such as construction service, telecommunication service, architecture service, consultancy engineer service, manpower recruitment service, security service, etc. Since the services received by the units located at SEZ were exempt from service tax by way of refund claim under Notification No. 40/2012-ST dated 20.06.2012 and under Notification No. 12/2013-ST dated 1.07.2013, the respondent filed six refund claims for the service tax paid on the input services. Show cause notices were issued proposing to deny the refund basically on the ground that the conditions specified in the notification, in particular condition number 2 (c). 3 (e) and 3 (f) were not complied with.*

*8. Considering the decisions cited by the learned counsel for the respondent, we agree that the issue now raised in these appeal stands already concluded in the series of decisions and the law has been well settled with regard to the compliance of the conditions of the notifications issued under the other statutes, i.e, the Customs Act, Excise Act and the Service Tax Act. Without repeating the observations of the various Benches, we would like to take note of the principles settled in these decisions:*

*1) Section 51 of the SEZ Act gives overriding effect to the provisions of the Act by using the expression notwithstanding anything inconsistent therewith contained in any other law for the time being in force*

*ii) Section 26 of the SEZ Act, specifically exempts from payment of duties under the Customs Act, Central Excise Act and Finance Act and thereby overrides the charging sections in all the three acts.*

*iii) Since charging sections under these enactments have been overridden by the SEZ Act, there is no legal authority to levy and collect the central excise duty, customs, duty, or the service tax in respect of the authorised operations of SEZ developers and units.*

*iv). Consequently, in view of Article 265 of the Constitution of India, no tax or duty can be either levied or collected in the absence of any legal authority.*

*v). Therefore, logically there is no need for an exemption notification under any of these three Acts or to comply with any of the conditions laid down in the exemption notifications issued under the three acts while dealing with levy of tax/duty on the SEZ units. Resultantly, the exemption notification issued under any of the enactments referred to and the conditions prescribed therein are therefore redundant and have no application by virtue of the provisions of section 51 of the SEZ Act, overriding the charging sections in the other laws.*

*vi.) The terms and conditions subject to which the exemptions are to be granted under section 26 (1) have to be prescribed by the rules made by the Central Government under the SEZ Rules issued in exercise of the power conferred by section 55 of the Act*

*9. The law is well settled that benefit of exemption granted under the notifications issued under the Finance Act are of general nature being available to any one and not necessarily confined to a unit in SEZ, which is peculiar in the case of section 26 of SEZ Act being a special power of exemption under a special enactment for a unit in a special economic zone. Therefore, notification issued under section 93 of the Finance Act 1994 cannot be pressed into service*

*for finding out whether a unit in SEZ qualifies for exemption or not.*

*11. Thus services rendered by the appellant are fully exempted from service tax in terms of the provisions of the SEZ Act. the condition of exemption by way of refund imposed by virtue of the notifications issued under the provisions of the Finance Act are inconsistent with the provisions of the SEZ Act and hence the provisions thereof cannot be imposed on the respondent to deny the refund.*

Further in the case of M/s Eclerx Services Limited vs. Commissioner of CGST & Central Excise, Navi Mumbai [2022 (9) TMI 166 CESTAT Mumbai) wherein, it has been held by the Tribunal as under:

6. The issue to be decided on this appeal is plain and simple enough: whether the notifications relied upon by the adjudicating authority can invalidate exemption accorded under of Special Economic Zones Act. 2005. It is unquestionably clear from the of Special Economic Zones Act, 2005 that no other law can prevail over it.

7. It is on record that the required documentation was not available for the entire period of the dispute but, at the same time, it cannot be denied that at some point, the eligibility did exist. The procedural infirmities, for a shorter or longer time, does not in any way supplant the exemption accorded to the impugned supply of services. Furthermore, the findings of the adjudicating authority do not arrive at a conclusion that, but for the said procedural infirmities, the eligibility of the appellant to render such services without payment of tax was in question. In the light of decision cited supra, the overriding nature of the exemption afforded by

section 26 of Special Economic Zones Act, 2005 and the breach of conditions being procedural, we have no hesitation in setting aside the demand pertaining to the rendering of services to M/s Credit Suisse Service (India) Pvt Ltd.

This judgment has been affirmed by Hon'ble Supreme Court as reported in 2023 (5) TMI 813-SC.

8.2 Further, in the case of Adani Power Mundra Ltd. vs. Commissioner of C.E., Ahmedabad-I, the relevant para is abstracted below:

*4.2 In view of above position of law consistently followed by this Bench, we find that the benefit of refund of service tax paid by the appellant cannot be snatched away on grounds of procedural and hyper technical infarctions pointed out by the revenue in the impugned orders. It is no matter of dispute that the appellant including its erstwhile entity were duly approved and authorised as co-developer of Special Economic Zone in Mundra, Gujarat. Nowhere in the impugned order, we find challenge by the revenue as regards payment of service tax by the appellant to the concerned service providers. Also the revenue has chosen not to challenge anywhere that the services involved in the refund claims not covered by the provisions of Special Economic Zones Act, 2005. Thus, we do not find merit in the arguments and averments made by the appellate authority in impugned order to deny the benefits granted by the provisions of the Special Economic Zones Act and we find strong force in the submission of the appellant as regards eligibility for refunds in terms of the overriding provisions of Special Economic Zones Act.*

Further, in the case of M/s Lanco Solar Pvt. Ltd. vs. Commissioner, Central Tax, Central Excise, Customs Service Tax Appeal No. 52078 of 2018, the Tribunal has held as under:

*3. The issue in these appeals is whether the appellant-assessee a developer in the SEZ, who are fully exempt from payment of service tax under Section 26 (1)(e) read with 51 of SEZ Act, 2005, and whether denial of refund of service tax on the ground of limitation is justified*

*10. Having considered the rival contentions and relying on the precedent decisions of this Tribunal, particularly in the case of Intas Pharma (supra), I hold that the ab initio exemption provided under the SEZ provisions, having overriding effect on the service tax provision. Under such position of law, a notification under service tax cannot restrict or provide a time limit for grant of refund to the SEZ unit and developer. Accordingly, impugned orders are set aside and appeals are allowed. The appellant is entitled to consequential benefit, in accordance with law. I further direct the adjudicating authority to grant the refund within a period of 45 days from the date of receipt of this order alongwith interest as per Rules.*

9. We have also examined the decisions cited by the learned authorized representative for the Department however they are not applicable in the facts of the present case in as much as they are based on the general law of limitation and are not related to SEZ units which have to be dealt on a different footing, hence, no reliance can be placed on those decisions.

10. In view of our discussion above, we are of the considered view that the Notification issued under the Finance Act, 1994 cannot impose restrictions which are not prescribed under SEZ Rules and consequently the limitation of one year period does not apply in the present case. Hence, we allow the appeal of the appellant by setting aside the impugned order with consequential relief, if any as per law.

(Order pronounced in the open court on 01.07.2026)

**(S. S. GARG)**  
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**  
**MEMBER (TECHNICAL)**