CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH,
COURT NO. III

SERVICE TAX APPEAL NO. 50092 OF 2022

[Arising out of the Order-in-Appeal No. 317 (SM)/ST/JPR/2021 dated 28/09/2021 passed by The Commissioner (Appeals), Central Excise and Central Goods and Service Tax, Jaipur.)

M/s Shriram General Insurance Co. Ltd. ……Appellant
E-8, EPIP, RIICO Industrial Area, Sitapura,
Jaipur – 302 022 (Rajasthan).

Versus

Commissioner of CGST, Jaipur, ….Respondent
New Central Revenue Building,
Statue Circle, C-Scheme,
Jaipur – 302 005 (Rajasthan).

APPEARANCE:

Shri Shivam Bansal, Advocate for the appellant.
Shri Mahboob Ur Rehman, Authorized Representative for the Department

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 51151/2026

DATE OF HEARING/DECISION : 08.07.2026

BINU TAMTA

The subject matter of the present appeal is the rejection of the refund claim of Krishi Kalyan Cess[1] and Swachh Bharat Cess[2] claimed by the appellant under the provisions of section 142 (5) of the Central Goods and Service Tax Act, 2017[3] on the ground

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1. **KKC**
2. **SBC**
3. **CGST Act**

of being time barred and hit by the principle of unjust enrichment.

2. Briefly stated the assessee is engaged in the business of providing general insurance services. The assessee had issued insurance policies to its clients and paid service tax on the premium amounts under the Finance Act, 1994[4], however, subsequently they were cancelled during the GST regime on account of various reasons, such as cheque dishonour, cancellation or alteration of policy on clients request, reversal of premium due to risk reduction. As a result, the assessee refunded the proportionate premium amount along with service tax component to the clients as no service has been provided either wholly or partly and filed the refund claim of Rs. 3.99,96,351/- in terms of Section 142(5) of CGST Act. The refund claim towards service tax has been allowed by this Tribunal vide Final Order dated 06.04.2026. The appellant had also filed the refund application dated 18.10.2018 for KKC and SBC aggregating Rs. 28,57,192/- under section 142 (5) of the CGST Act, however, the same has been rejected on the ground of time bar and unjust enrichment. The appellant has, therefore, approached this Tribunal.

3. The issue for consideration is whether the refund claim filed under section 142 (5) of the CGST Act is barred by limitation or is hit by the principle of unjust enrichment.

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4. The Act

4. The submission of the learned counsel for the appellant is that the issue is no longer *res-integra* and has been decided in their own case by the same Bench following the earlier line of decisions :-

(a) **Punj Lloyd Limited** versus **Commissioner of Central Tax/GST, New Delhi**[5]

(b) **Wave Megacity Centre Private Limited** versus **Commissioner (Appeals-I), CGST and Central Excise, New Delhi**[6]

(c) **Indiabulls Distribution Services Limited** versus **Commissioner, Division – Connaught Place, Central Tax, Central Excise & Service Tax**[7]

(d) **Wave One Private Limited** versus **Commissioner (Appeals-I), Central Goods and Service Tax and Central Excise, Delhi**[8]

5. It is also the case of the appellant that the claim for refund of KKC and SBC arises by reason of cancellation of the policies whereby either no service or only part of the service had been provided by the appellant and therefore they were eligible to claim refund of service tax and the cesses paid according to the proportionate premium amount. Once the refund of the service tax component has been held to be admissible by the Tribunal, the refund of KKC and SBC, which are merely constituent components of the service tax levy cannot be subjected to a different treatment.

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5. Final Order No. 50100-50101/2024 dated 18.01.2024
6. Final Order No’s. 51242-51443/2025 dated 27.08.2025
7. Final Order No. 50389-50390/2026 dated 20.03.2026
8. Final Order No. 51564/2023 dated 31.10.2023

6. The learned Authorized Representative for the Revenue has very fairly conceded that the issue is clearly covered by the earlier decisions in favour of the appellant.

7. We, therefore, refer to the observations made by us in the case of the appellant as under :-

> "9. On the issue of applicability of unjust enrichment, the Commissioner (Appeals) considered the provisions of Rule 6(3) of Service Tax Rules, 1994[9] and Section 142(5) of CGST Act, 2017 and observed as under:-
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> > "**15.** It is seen from the above provisions of Rule 6(3) of the Service Tax Rules, 1994 that where the service provider has not provided the services and has refunded the payment or part thereof, so received for the service to be provided to the person from whom it was received, then they may take the credit of such excess service tax paid by him. Similarly, after introduction of the CGST Act, 2017, the provisions of Section 142(5) provides that every claim filed by a person after the appointed day for refund of tax paid under the existing law in respect of services not provided shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash. However, the provisions contained in sub-section (2) of section 11B of the Central Excise Act, 1944 will be applicable to such claim. It is seen that undisputed essence of provisions of Rules 6(3) of the Service Tax Rules, 1994 and the Section 142(5) of the CGST Act, 2017 are that any tax has been paid in respect of the services to be provided but services has not been provided (because of any reasons) then the service tax so paid is to be credit to the account of the service provider. Rule 6(3) of STR, 1994 provides that the service provider may take credit of such amount and utilise it for their subsequent liability, provided the amount for such service have been returned to the person from whom they have received. Rule 6(3) of STR, 1994 does not specify that the amount should be returned by following the provisions of Section 64VB in The Insurance Act, 1938 i.e. the returned amount should be paid to the insured only. **Thus as per the provisions of Rule 6(3) of STR, 1994 and Section 142(5) of the CGST Act, 2017 compliance of the provisions of Section 64VB in The Insurance Act, 1938 is not**

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9. The Rules

> **mandatory, but what is required that the service provider should return the amount of service to the person from whom it was received. In this case the claim has been made after 1.7.2017, thus first condition of Section 142(5) of the CGST Act, 2017 is fulfilled. Further, the assessee has stated that they receive the amount from the agents / financiers and they have returned the amount to the agents / financiers and this fact has also been admitted in the impugned orders (in OIO no. 331/REF/2018 dated 14.9.2018 para 5.7 refers and in OIO no. para 4 of discussions & findings refers). Therefore, I find that the basic requirements of Rule 6(3) of STR, 1994 and Section 142(5) of the CGST Act, 2017 1.e. services have not been provided and also the amount for the service has been returned to the person from whom it was received, have been fulfilled. Accordingly, there is no need to comply with the provisions of Section 64VB in The Insurance Act, 1938."**

10. In so far as the facts of the present case are concerned, the learned Counsel for the assessee has emphasized on the mode of transaction whereby the amount was received from the insured and remitted back in the event of cancellation of the policy. He submitted that the assessee receives the premium amount through financer and the said financer in turn receives the said premium amount from the insured. Therefore, when the insurance policy is cancelled due to some reason, the assessee remits the premium amount along with service tax, proportionate to cancellation of the policy to the financer only and the financer then remits the said amount to the insured by crediting the same to its account. The Commissioner (Appeals) in its order dated 27.09.2019 has also taken note of these facts and concluded that the respondent had received premium amount from the corporate agent/financer and hence, in case of cancellation of policies, the amount proportionate to the policy cancellation has been refunded by them to the financer/agent only. We do not find any reason to differ with the view taken by the Commissioner (Appeals) specially with reference to the provisions of law relied on. We, therefore, hold that the Department is not right in invoking the principle of unjust enrichment in denying the refund to the assessee.

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12. From the aforesaid, we find that the appellant has clarified the doubt which the Commissioner (Appeals) had in his mind

regarding receipt of the remittance to the insured, while remanding the matter to the Adjudicating Authority. In the facts and circumstances, we hold that the appellant is entitled to the refund as the payment pertaining to the cancellation of the insurance policy had ultimately reached the service recipient, i.e. the insured. Referring to the provisions of Rule 6(3) of the Rules and Section 11B(2) of the CEA, the learned Counsel for the appellant submitted that the requirement is that the refund has to be made to the person from whom the amount was received and not to the service recipient. Since the learned Counsel for the appellant has already clarified on the basis of the documents that the amount has ultimately reached the insured, it is not necessary to go into the submissions made further. Consequently, we hold that refund claims filed by the appellant are not hit by bar of unjust enrichment**.**

13. The issue of applicability of limitation prescribed under Section 11B of CEA to the refund applications filed under Section 142(5) of CGST is no longer *res- integra* and has been decided in favour of the assessee by series of decisions. Without multiplying too many decisions on the issue, we may refer to the decision of the Division Bench of this Tribunal in the case of **Wave Megacity Centre Private Limited versus Commissioner (Appeals-I) Central Tax Goods and Service Tax and Central Excise, New Delhi**[10], wherein it was observed:-

> "10. The issue of refund in similar circumstances and the contentions raised by the learned Counsel have been considered in series of decisions by different learned Single Members, as referred above. The consistent view taken in all these decisions is that refund claim of service tax paid under the existing law (Central Excise Act, 1944) in respect of services not provided shall be disposed of under the existing law and has to be paid in cash, however such refund is subject to the provisions of sub-Section (2) of section 11B of CEA, which means that it is only in case of unjust enrichment that the refund amount can be denied. The refund application cannot be rejected on the ground of time bar under Section 11 B. The learned Single Member has taken support from the decision of the Apex Court in the case of **Collector of Central Excise, Chandigarh versus M/s. Doaba Cooperative Sugar Mills Ltd., Jalandhar**[11] and concluded that there is no reason to invoke section 11B

10. Final order No.51242-53/2025 dated 27.08.2025 in S.T. Appeals No.54979-80/2025
11. 1988 (37) E.L.T. 487 (S.C.)

and the amount needs to be refunded, notwithstanding anything, contrary in the erstwhile law. The observations have also been made that the relevant date would not be the date of payment of service tax by the appellant but the date of issuance of credit notes to its customers subsequent to cancellation of agreements for providing construction service between those customers and the appellant. Accordingly, the appeal was allowed with consequential relief.

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12. We fairly accept the views taken by the learned Single Member Bench in respect to the same controversy and being in conformity with the provisions of Section 142 of CGST Act. As noted by the learned Single Member in **Credence Property Developers**, that when there is no incidence of service there cannot be any leviability of service tax. Once the booking has been cancelled and the amount has been refunded, there is no scope for rendering any service on which the Department can hold the amount towards service tax. The appellant had issued credit notes in respect of service which is not rendered to the customers on account of cancellation of the agreement and hence there was no scope of rendering any services on which the service tax could be levied.

13. The learned Counsel for the appellant has relied on the provisions of Rule 6 of Service Tax Rules, 1994, which entitles the assessee to take the credit of such excess service tax paid by him. Rule 6 during the period 01.04.2011 to 30.06.2017 is quoted below:-

> **"(3)** Where an assessee has issued an invoice, or received any payment, against a service to be provided, which is not so provided by him either wholly or partially for any reason, or where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract, the assessee may take the credit of such excess service tax paid by him, if the assessee. (a) has refunded the payment or part thereof, so received for the service provided to the person from whom it was received; or (b) has issued a credit note for the value of the service not so provided to the person to whom such an invoice had been issued."

There is no doubt that the appellant was entitled to the credit as the present case falls within the ambit of Rule 6 since the appellant had received the amount against the service to be provided, however, for the reason stated above, the same could not be provided by him, and the amount of invoice was to be returned back to the customers, the appellant therefore could have taken the credit of such excess service tax paid by him subject to

> the conditions specified in the rules. For the said reason also, the refund needs to be allowed."

8. In view of the settled principles of law that the refund cannot be rejected on the ground of time bar or on the principle of unjust enrichment, we set aside the impugned order and hold that the appellant is eligible to claim the refund towards KKC and SBC.

9. The appeal is, therefore, allowed.

(Order dictated and pronounced in open court.)

(BINU TAMTA)
MEMBER (JUDICIAL)

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

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