IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 06.07.2026	Delivered On: 14.07.2026

CORAM

THE HONOURABLE DR JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MRS. JUSTICE N. MALA

C.M.A.No.1711 of 2021

Shen Long Bio-Tech (India) Private Limited,
New No.17, Old No.107, F-Block,
3rd Street, Anna Nagar (East),
Chennai – 600 102. … Appellant

vs.

Commissioner of GST and Central Excise,
Chennai North Commissionerate,
No.26/1, M.G.Road, Nungambakkam,
Chennai – 600 034. … Respondent

Prayer: Civil Miscellaneous Appeal has been filed under Section 35G of Central Excise Act, 1944 against Final order No.41012/2019, dated 05.08.2019 passed in Appeal No.ST/42716/2018 by the Customs, Excise & Service Tax Appellate Tribunal, Chennai.

For Appellant : Mr.N.Murali

For Respondent : Mr.S.Gurumoorthy,
Senior Standing Counsel, &
: Mr.G.Meganathan,
Junior Standing Counsel

JUDGMENT

The order of the Tribunal rejecting the refund claim made by the assessee pursuant to the Finance Act, 2017, which was given retrospective effect, is now before this Court by way of challenge in the present Civil Miscellaneous Appeal.

2. The short point involved in this case is if the petitioner is entitled to the benefit of the Notification No.41/2016 dated 22.09.2016 issued by the Ministry of Finance, Government of India, in the interest of public, exempting taxable services provided by State Government Industrial Development Corporations/ Undertakings to industrial units by way of granting long-term lease of industrial plots from so much of service tax leviable thereon under Section 66B of the said Act. The Finance Act, 2017 got assent of the President and came into force from 01.04.2017.

3. Section 104 has been inserted in Finance Act, 2017 reads as below:

> *(1) Notwithstanding anything contained in section 66, as it stood prior to the 1st day of July, 2012, or in section 66B, no service tax, leviable on one time upfront amount (premium, salami, cost, price, development charge*

or by whatever name called) in respect of taxable service provided or agreed to be provided by a State Government industrial development corporation or undertaking to industrial units by way of grant of long term lease of thirty years or more of industrial plots, shall be levied or collected during the period commencing from the 1st day of June, 2007 and ending with the 21st day of September, 2016 (both days inclusive).

(2) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2017 receives the assent of the President.

4. Section 104(1) of Finance Act, 2017, got amended and given retrospective effect to extend the exemption granted; sub-Section (2) of Section 104 pertains to refund to be granted to the service tax already paid and Sub-section 104(3) of the Finance Act, 2017 enables the taxpayer to seek a refund within six months from the date of assent to the Act.

5. At the time of admitting the appeal, the following substantial questions of law were framed for consideration:-

(i)Whether the Appellate Tribunal in the facts and circumstances of this case was correct in dismissing the appeal in rejecting the claim of refund application?

(ii)Whether the Appellate Tribunal was correct in applying the statutory provisions for rejecting the refund claim when the refund claim is through the Finance Act, 2017?

(iii)Whether the Appellate Tribunal is justified in rejecting the claim of refund after observing that even from the letter dated 14.09.2017 of the SIPCOT still the claim is barred by limitation. Whereas, it is not so and the claim is within the period of limitation?

(iv)Whether the Appellate Tribunal is correct in adopting the technicalities and narrow approach when the intention/object of the Government itself is to encourage the development of Industries allotted by Industrial undertakings/Corporation?

(v)Whether the Appellate Tribunal was correct in dismissing the appeal even if the period of limitation is calculated from, the date of assent of the President which is only the minimal delay of four months and 26 days?

6. The assent to the Act was granted on 31.03.2017 and the refund claim made by the appellant on 26.02.2018, which was found to be beyond six-months period, was rejected by the respondent.

7. It is an undisputed fact that the application for refund will be entertained only if a certificate from SIPCOT confirming the payment of service tax is annexed. In this case, the certificate from SIPCOT was issued to the appellant on 19.12.2017. Earlier, on 14.09.2017, SIPCOT had intimated the appellant that he was entitled for refund. The two communications from SIPCOT are extracted below:-

State Industries Promotion Corporation of Tamil Nadu Limited
(A GOVERNMENT OF TAMILNADU UNDERTAKING)

Regd. Office . 19-A, Rukmani Lakshmipathy Road, Post Box No.7223, Egmore, Chennai - 600 008.
Phone : 28554787 Fax : 044-28553746/42177333 CIN U74999TN1971SGC005967

Ref. No. : Date

D-I/SIP-TK/Sheng-Long/2015 Dt.: 19.12.2017

M/s. Sheng Long Bio-Tech (India) Pvt. Ltd., / BY RPAD /
New No.17, Old No.107, F-Block.
3rd Street, Anna Nagar (East).
Chennai – 600 102.

Sirs,

Sub: SIPCOT Industrial Park, Thervoykandigai – Plot No.A-11/1 Part A measuring 13.78 acres allotted to you – Your request for refund of Service Tax – Reg.

Ref: 1. Our Allotment Order of even No. dated 13.10.2015.
2. Project Officer, SIP, Thervoykandigai letter dated 14.9.2017.
3. Your letter dated Nil received on 16.11.2017.

This has reference to your letter 3rd cited regarding the refund of Service Tax on Development Charges earlier remitted by your company.

We enclose a Certificate for the remittance of Service Tax by SIPCOT (duly mentioning the remittance challan number) along with copy of Remittance Challan and request you to claim the Service Tax amounting to Rs.31,18,834/- (Rupees thirty one lakhs eighteen thousand eight hundred and thirty four only) directly from the Service Tax Department in your jurisdiction.

Yours faithfully,

GENERAL MANAGER-II

Encl : As above.

Copy to :
The Project Officer,
SIPCOT Industrial Park,
Thervoykandigai.

STATE INDUSTRIES PROMOTION CORPORATION OF TAMIL NADU

(A GOVERNMENT OF TAMIL NADU UNDERTAKING)

PROJECT OFFICE – SIPCOT INDUSTRIAL PARK – THERVOY KANDIGAI
GUMMUDIPOONDI TALUK – THIRUVALLUR DIST

CIN : U74999TN1971SGC09157
WEBSITE : www.sipcot.com

Email: posipcottk@yahoo.in

REF:PO/SIPCOT/TTK/SERVICE/TAX/2017 DT:14.09.2017

To
All Units as per list enclosed

Dear Sir

Sub: SIPCOT Industrial Park, Theryokandigai – Service Tax on Development Charges exempted by Finance Act 2017 with retrospective effect – Eligible for refund – reg.

We wish to inform that the Service Tax on Development charge exempted by Finance Act 2017 with retrospective effect. Accordingly, the allottee who have remitted the Service Tax on Development Charge are eligible for refund.

Hence, you may prefer claim in your Service Tax jurisdiction by enclosing the following details along with your request.

1. Copy of allotment of SIPCOT/ letter of SIPCOT demanding Service Tax.
2. Copy of Receipt issued by SIPCOT for collection of Service Tax.
3. Self declaration that your have not availed Input Tax Credit on Development charges.

Please note that it is time bound and you are requested to prefer the claim immediately without delay.

Further, we are to inform that SIPCOT is not responsible for non-receipt of refund of service tax on development charges.

Yours Faithfully

PROJECT OFFICER

Copy Submitted to
The General Manager – II SIPCOT, CHENNAI – 8

8. The refund request made by the appellant on 26.02.2018 was considered barred by limitation, reckoning the period from the date of assent of the amendment Act. However, if the date of certificate from service provider is taken as the date of commencement of limitation, the refund request is within six months.

9. When a similar issue came up for consideration, the Hon'ble Bombay High Court, in ***M/s. JSW Dharmatar Port Pvt. Ltd. v. Union of India, reported in 2019 (20) G.S.T.L. 721 (Bom.)****,* held that to claim refund, the six-month limitation period must be reckoned from the date of the certificate from SIPCOT. In the present case, it is undisputed that the application for refund claim should be accompanied by the SIPCOT's certificate in confirmation of the payment of service tax. Hence, following the aforesaid dictum of the Bombay High Court, the application for refund by the appellant is construed to be within the six-month limitation. Therefore, we hold that the Tribunal was not correct in dismissing the appeal seeking refund of service tax on the ground of limitation.

10. We are of the view that the Tribunal erred in reckoning the period of limitation, which in this case commences only after the certificate by the service provider, namely SIPCOT. Hence, the substantial questions of law are answered in favour of the assessee.

11. Accordingly, the Civil Miscellaneous Appeal is allowed. The respondent is directed to consider the appellant's refund application and pass orders in accordance with law within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

(**Dr**. **G.JAYACHANDRAN**, **J.**) & (**N. MALA, J.**)
14-07-2026

Index :Yes.
Neutral Citation :Yes/No.
bsm

To,
1. The Joint Commissioner (CT),
State of Tamil Nadu,
Zone VII,
Chennai.

2. The Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Chennai.

Dr. G.JAYACHANDRAN, J.
&
N. MALA, J.
bsm

Pre-Delivery judgment made in
C.M.A.No.1711 of 2021

Judgment delivered on
14-07-2026