CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. I

Service Tax Appeal No. 40742 of 2017

(Arising out of Order-in-Original No. CHN-SVTAX-001-COM-59-2016-2017 dated 30.11.2016 passed by Commissioner of Service Tax, Newry Towers, Plot No. 2054, I Block, II Avenue, Anna Nagar, Chennai – 600 040)

M/s. Citi Bank N.A. **...Appellant**
Club House Road,
Anna Road, HO,
Chennai – 600 002.

Versus

Commissioner of GST and Central Excise **...Respondent**
Chennai Outer Commissionerate,
Newry Towers, No. 2054-I,
2nd Avenue, 12th Main Road,
Anna Nagar,
Chennai – 600 040.

APPEARANCE:

For the Appellant : Mr. Gopal Mundhra, Advocate
For the Respondent : Mr. Anoop Singh, Authorised Representative

CORAM:
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No. 41001 / 2026

DATE OF HEARING : 16.03.2026
DATE OF DECISION : 07.09.2026

Per Mr. VASA SESHAGIRI RAO

The present appeal has been preferred by M/s. Citibank N.A. (hereinafter referred to as "the appellant") assailing Order-in-Original No. 59/2016-17 dated 30.11.2016 (hereinafter referred to as "the impugned order"), whereby a demand of service tax amounting to Rs. 2,49,34,71,485/-, along with applicable interest and penalties under Sections 73, 75 and equal penalty under Section 78 of the Finance Act, 1994, has been confirmed against the appellant. The dispute pertains to the period from October 2010 to March 2015 and arises out of a Show Cause Notice alleging non-payment of service tax on interest earned on Equated Monthly Instalment (EMI)-based loans extended through credit card accounts, as well as on additional interest collected for delayed payment of EMIs.

2. The appellant is a banking company engaged in providing banking and financial services, including credit card services. It is not in dispute that the appellant extends loan facilities such as "Loan on Phone", "Balance Conversion", "Dial-an-EMI" and merchant EMI schemes to its existing credit card holders, wherein loan amounts are disbursed and recovered through equated monthly instalments reflected in the monthly credit card statements. The case of the Department is that such transactions are not independent loan transactions but are integrally connected with credit card services and are, therefore, taxable. It is alleged that the interest component embedded in the EMIs constitutes consideration for provision of service and is liable to service tax under both the pre-negative-list and post-negative-list regimes. It is further alleged that the additional interest

charged for delayed payment of EMIs is liable to tax as consideration for tolerating an act under Section 66E(e) of the Finance Act, 1994.

3. Aggrieved by the impugned order, the appellant has preferred the present appeal before this Tribunal.

4.1 The Ld. Advocate, Shri Gopal Mundhra, appeared for the appellant and advanced detailed submissions in support of the appeal. The Ld. Authorized Representative, Shri Anoop Singh, appeared for the respondent and reiterated the findings recorded in the impugned order.

4.2 The Ld. Counsel for the appellant submitted as under: -

i. The entire demand proceeds on a fundamental misconception as to the true nature of the transactions. It is contended that the EMI-based products are, in substance as well as in law are the loans and advances extended by the bank to its customers and that the interest earned thereon constitutes consideration for the use of money and not consideration for any service. It is argued that the credit card platform merely constitutes the mode or mechanism through which the facility is made available and does not, in any manner, alter the intrinsic character of the transaction.

ii. It was submitted that the loan products are governed by separate loan arrangements, sanction letters and terms and conditions, as evidenced by the records, and that the impugned order itself acknowledges that loans are sanctioned independently with distinct principal and interest components. The appellant emphasizes that the essential attributes of a loan, namely, disbursement of principal, obligation to repay and payment of interest, are clearly satisfied.

iii. The appellant further submitted that interest on loans was specifically excluded from the taxable value under Rule 6(2)(iv) of the Service Tax (Determination of Value) Rules, 2006, for the pre-2012 period and under Section 66D(n) for the post-2012 period. It was argued that the legislative scheme, both prior to and after introduction of the negative-list regime, consistently excludes interest on loans from the levy of service tax.

iv. Reliance was placed on decisions of the Tribunal and the High Courts, including Mahindra Holidays, Karur Vysya Bank and other precedents holding that interest on loans does not a constitute consideration for any service. It was further submitted that the Hon'ble Calcutta High Court, in Ramesh Kumar Patodia, has recognized that loan transactions routed through credit cards retain their essential character as loans.

v. With respect to penal interest, it was contended that the same cannot be artificially re-characterised as consideration for tolerating an act. The additional interest is merely compensatory in nature and remains intrinsically connected with the underlying loan transaction. It was, therefore, argued that such additional interest cannot be brought within the ambit of consideration for tolerating an act.

vi. On limitation, it was submitted that the dispute is essentially interpretational in nature, that the transactions were duly disclosed in the statutory records and returns and were subjected to audit, and that, consequently, the extended period of limitation as well as penalty are not invocable.

5. *Per contra*, the Ld. Authorized Representative Shri Anoop Singh firstly has reiterated the findings recorded in the impugned order. Further, it was strenuously contended that the loans are intrinsically linked with credit card services and cannot be regarded as independent lending transactions. According to the Revenue, the entire mechanism operates through credit card accounts and billing statements and, therefore, the service is more appropriately classifiable as

"credit card services". It was also elaborately submitted that: -

i. The interest component embedded in the EMIs is to be treated as a consideration for providing financial services and is, therefore, liable to service tax. The Revenue relies upon the wide definition of "credit card services" and "banking and other financial services" under Section 65(105)(zzzm)/(zm) of the Finance Act, 1994.

ii. For the post-2012 period, it was argued that the activity qualifies as a "service" under Section 65B(44) and that the interest validly constitutes consideration therefor. The Department also contends that delayed payment charges constitute consideration for tolerating default and fall within the ambit of the declared service.

iii. It was further contended that the appellant had suppressed the material facts and that, consequently, invocation of the extended period of limitation and imposition of penalty were fully justified. The Ld. Authorized Representative vehemently argued that the impugned order warrants no interference.

7. We have carefully considered the rival submissions advanced by the learned representatives for both sides, perused the appeal records in detail, examined

the relevant statutory provisions and given our anxious consideration to the judicial precedents relied upon by the parties.

8. Upon consideration of the rival submissions and the material available on record, the following questions arise for determination: -

i. Whether the interest earned by the appellant on EMI-based loan transactions facilitated through credit card accounts, including additional interest charged on delayed payment, is liable to service tax or represents non-taxable interest on loans and advances.
ii. Whether the demand of service tax is sustainable on the ground of limitation and whether penalties are imposable in the facts and circumstances of the present case.

9. We shall now proceed to examine the issues arising for determination in the backdrop of the statutory framework, the factual matrix and the judicial precedents referred to hereinabove.

Issue No. (i): Whether interest earned on EMI-based loan transactions routed through credit card accounts, including penal interest, is liable to service tax

10. The issue that falls for our consideration is whether the interest earned by the appellant on EMI-based transactions extended through the credit card platform is liable to service tax under the provisions of the Finance Act, 1994, and whether the additional interest charged on delayed payment of such EMIs is independently exigible to service tax? The determination of this issue necessarily turns upon the true and substantive nature of the transactions and upon whether the amounts received by the appellant represent consideration for any taxable service or merely interest arising from loans and advances, which stands excluded from the levy.

11. At the outset, it would be apposite to examine the statutory framework governing the levy of service tax on financial transactions. Prior to 01.07.2012, service tax was leviable on specified taxable services defined under Section 65(105) of the Finance Act, 1994, including banking and other financial services. The valuation of such taxable services was governed by Section 67 read with the Service Tax (Determination of Value) Rules, 2006, and Rule 6(2)(iv) of the said Rules expressly excluded interest on delayed payment of any consideration for provision of services or sale of property, whether movable or immovable. With effect from 01.07.2012, the negative-list regime was introduced,

and Section 66D(n) specifically excluded services by way of extending loans or advances insofar as the consideration is represented by way of interest. Clause (n) of Section 66D reads as under: -

> "Services by way of—
>
> (i) extending deposits, loans or advances, in so far as the consideration is represented by way of interest or discount; and
>
> (ii) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers."

Further, the definition of "service" under Section 65B(44) excludes transactions in money. The legislative scheme thus manifests a consistent legislative intent that interest on loans is not chargeable to service tax. Further, Section 65B(30) of the Finance Act, 1994 defines "interest" as interest payable in any manner in respect of any money borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charges in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized. Further, Section 65B(33) of the Finance Act, 1994 defines "money" as legal tender, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any similar instrument but shall not include any currency that is held for its numismatic value. Section 65B(44) of the Finance Act, 1994 defines "service" as any activity carried out by a person for another for consideration, while specifically excluding "a transaction in money or actionable claim". The statutory exclusion is, therefore, of direct relevance in determining the taxability of the impugned receipts.

12. It is also necessary to bear in mind that the Finance Act, 1994 does not define the expressions "loan" or “loan through credit cards”. In the absence of statutory definitions, these expressions must necessarily be understood in their ordinary commercial sense, having regard to the substance of the transaction and the principles laid down in judicial precedents. In this regard, reliance was placed by the appellant on the decision of the Hon'ble Supreme Court in *Wockhardt Ltd. v. CCE, 2012 (277) E.L.T. 299 (S.C.),* wherein the Hon'ble Supreme Court held that, in matters of taxation, the true nature of a transaction must be determined on the basis of its substance and not merely on the nomenclature or form in which it is presented. Applying the aforesaid principle, a transaction involving disbursement of money coupled with an obligation to repay the same together with compensation for its use bears the essential

characteristics of a loan. It is further relevant to examine the scope of "Banking and other financial services" as defined under Section 65(12) of the Finance Act, 1994, prior to 01.07.2012, which included credit card services and other financial services, namely, lending. However, even within this broad taxable category, the legislature consciously excluded interest on loans from the taxable value, thereby recognizing the distinction between the activity of lending and the interest. Thus, while the activity of lending may fall within the broad description of banking services, the interest component stands on a distinct statutory footing and is specifically excluded from taxation. Consequently, merely because a transaction is undertaken by a bank or routed through a credit card mechanism, it does not follow that the interest earned therefrom automatically assumes the character of consideration for a taxable service. The distinction between the activity of lending and the consideration in the form of interest is fundamental and has consistently been recognized both in the statutory scheme and in judicial interpretation.

13. We have carefully examined the nature of the transactions in question. From the material placed on record, it emerges that the transactions essentially involve loans and advances extended by the appellant-bank to its existing

credit-card holders, against which the appellant earns interest. The fact that the facility is made available through, or administered by means of, the credit-card account does not, by itself, alter the essential character of the underlying transaction. The credit card, in such circumstances, operates as a mechanism or channel for disbursal, accounting and recovery of the loan amount. We further note that the interest arising from these transactions is accounted for by the appellant under the broader head of "interest income" in its financial records and, within the said head, under the sub-heading "cards EMI interest a/c", as noticed in paragraph 6.6 of the impugned order. The manner in which the receipts are accounted for, though not by itself determinative of taxability, constitutes a relevant contemporaneous indication of the appellant's treatment of the receipts as interest arising from lending transactions. Merely because the principal and interest components of the EMI are reflected in the monthly credit-card statements, the underlying money transaction cannot, in our considered view, automatically be characterised as a credit-card service. A statement issued in respect of a credit-card account may serve as a mode of accounting and recovery of amounts due from the cardholder; it does not, by that circumstance alone, determine the legal character of the underlying transaction. The nature of the receipt has to be ascertained having regard to the substance of the transaction and the rights and obligations arising therefrom. Significantly, the impugned order itself, at various places, including paragraphs 5.0, 5.1, 8.0 and 11(i), records that the transactions involve loans and that interest is earned thereon. Thus, the factual character of the transactions as involving lending of money and recovery thereof with interest is not substantially in dispute. The controversy, therefore, is essentially as to the legal consequence flowing from such transactions, namely, whether the interest so earned can nevertheless be brought within the taxable category of credit-card services merely because the loans are offered to existing credit-card holders and the transactions are reflected through their credit-card accounts.

14. The aforesaid issue also finds support from the judgment of the Hon'ble Calcutta High Court in *Ramesh Kumar Patodia v. Citi Bank N.A., [2023 (7) TMI 1102],* wherein, while examining a similar transaction in the context of GST, the Hon'ble High Court examined the substance of a loan facility extended to a credit-card holder and held that the mere fact that the loan transaction was reflected in the monthly statement of the credit card did not alter its essential character as a separate loan transaction. The Hon'ble High Court, in substance, held that where the loan

was independently sanctioned and advanced by the bank, the transaction could not, merely by reason of its reflection in the credit-card statement, be treated as a credit-card service. The said decision lends considerable support to the appellant's contention that the legal character of the underlying transaction has to be determined on the basis of its substance and the rights and obligations arising therefrom, rather than merely on the medium through which the transaction is administered or reflected.The Hon'ble High Court observed as under: -

> *"If the loan was advanced to the appellant through use of the card, then one could have understood that the service was related to the card. In this case, the bank declared the appellant card holder to be eligible to receive loan. His loan amount was advanced by a cheque or draft issued by the bank. That is to say, the loan amount was not generated by charging the appellant's card. It appears in the monthly statement issued in relation to use of the card, that the loan amount was shown and the equated monthly instalment payable indicated. In my opinion, it was only a statement of account. The loan transaction had to be taken as an altogether separate transaction. It had no relationship with the relationship between the appellant and the bank arising out of issue, holding or operation of the credit card.*
> *Hence, the appellant's above transaction with the bank was a service which could not be termed as a credit card service and was not exigible to the Integrated Goods and Service Tax under the notification dated 28th June, 2017.*****
> *As respondent City Bank granted Loan to the appellant repayable with interest it is to be treated as loan simpliciter and cannot be equated with Credit Card. The basic difference between loan and credit Card is that the former is granted as a necessity and is a welfare scheme and the later is a facility granted to customers to get goods and services on credit from 3rd parties by availing the Credit Card Services of the Bank regarding payment.*
> *Thus loan and Credit Card Services cannot be equated. Thus loan to a Credit Card holder is to be treated as a loan and nothing else. Hence this Appeal stands allowed and the order passed by the learned trial judge is set aside."*

15.1 It is also necessary to examine the statutory exclusion relating to “transactions in money” under the Finance Act, 1994. Section 65B(44) defines “service” as an activity carried out by one person for another for consideration, while expressly excluding a “transaction in money or actionable claim”. Further, Section 65B(30) defines “interest” to mean interest payable in any manner in respect of money borrowed or debt incurred, while excluding service fees or other charges relating thereto. Section 65B(33), in turn, defines “money” broadly to include legal tender and various monetary instruments. The statutory scheme thus draws a clear distinction between consideration for a service and amounts arising from a transaction in money. In the present case, under the various EMI-based schemes, the appellant advances a quantified sum to the customer, which is repayable over a stipulated period together with interest. The transaction is, in substance, one of lending and repayment of money, and the interest represents the return for the time value of the money lent, rather than consideration for any independent service. The mere fact that the loan facility is administered through, or reflected in, the customer's credit-card account cannot alter the essential character of the transaction. Accordingly, the impugned receipts, being interest arising from transactions in money, cannot be brought within the ambit of "service" merely by treating the lending facility as a credit-card service.

15.2 We find merit in the appellant's contention that interest on loans is expressly excluded from the levy of Service Tax. For the period prior to 01.07.2012, Rule 6(2)(iv) of the Service Tax (Determination of Value) Rules, 2006 specifically excluded "interest on loans" from the value of taxable services. With effect from 01.07.2012, Section 66D(n)(i) of the Finance Act, 1994 similarly placed services by way of extending loans or advances, insofar as the consideration was represented by interest or discount, in the negative list. Thus, interest on loans remained outside the Service Tax levy. The specific statutory exclusion cannot be defeated by treating such interest as consideration for credit-card services under Section 65(33a). The character of the receipt must be determined by its substantive nature, and an express exclusion must be given effect. We, therefore, hold that interest arising from the loans and advances extended by the appellant cannot be subjected to Service Tax merely because the lending facility was routed through the credit-card platform.

16. We find substance in the contention of the appellant that reliance placed in the impugned order upon

the stay order passed in *Mahindra Holidays & Resorts India Ltd. v. CCE & ST, LTU, Chennai [2014 (34) S.T.R. 422]* is misplaced. The issue was subsequently considered and finally decided by this Tribunal *vide* Final Order dated 26.09.2018 in Mahindra Holidays (*supra*), wherein it was held that interest charged on instalments does not constitute consideration for the services rendered and is, therefore, not liable to Service Tax. Consequently, the confirmation of demand in the impugned order solely on the basis of an interim order, which was subsequently superseded by the final decision, cannot be sustained. While rendering the aforesaid decision, this Tribunal followed the decision in *Karur Vysya Bank v. CCE, Trichy [2015-TIOL-635-CESTAT-MAD]*, which, in turn, relied upon the judgment of the Hon'ble Supreme Court in Association of *Leasing & Financial Services Companies v. Union of India [2010 (20) S.T.R. 417 (S.C.)].* The settled position emerging from these decisions is that interest represents consideration for the use of money or the liquidity foregone on account of lending and is distinct from consideration for any taxable service. In the absence of any separately identifiable service charge forming part of the interest, such interest cannot be subjected to Service Tax. The same principle finds support in the judgment of the Hon'ble Bombay High Court in *Shriram Transport Finance [2021 (46) G.S.T.L. 385 (Bom.)]* and the decision of this

Tribunal in *Thermax Ltd. [2007-TIOL-1466-CESTAT-MUM],* wherein it was recognised that interest charged on loans, including where recovered through EMIs, cannot be regarded as consideration for the provision of any service. We, therefore, find that the reliance placed in the impugned order on the earlier stay order in Mahindra Holidays is misplaced and cannot sustain the demand of Service Tax on the interest component.

16.1 We find merit in the submission of the appellant that interest charged on loans and advances cannot be regarded as consideration for any taxable service. Under the Finance Act, 1994, Service Tax is leviable only on consideration attributable to the provision of a taxable service. Thus, an amount can constitute consideration only where there exists a direct and proximate nexus between such amount and the taxable activity. The mere receipt of an amount by a service provider cannot, by itself, render the same exigible to Service Tax. This principle finds support in *Karur Vysya Bank Ltd. v. Commissioner of Service Tax, 2015-TIOL-631-CESTAT-MAD*, wherein the Tribunal, following the judgment of the Hon'ble Supreme Court in Association of Leasing & Financial Services Companies v. Union of India, held that interest arising from lending transactions represents consideration for the use of money and is distinct from consideration for any service. Financial transactions involving lending and borrowing constitute "transactions in money" and cannot be subjected to Service Tax, save to the extent of any separately identifiable service charges. The Tribunal accordingly held that interest income arising from lending transactions is not exigible to Service Tax. We also find support from the decision in Mahindra Holidays (*supra*), wherein interest charged for deferred payment was held to represent compensation for the time value of money and not consideration for the underlying service. Applying the aforesaid principles, the interest charged by the appellant on loans advanced to its credit-card holders represents the return for the use of money and the time value thereof. It cannot, therefore, be treated as consideration for any independent credit-card service. The fact that the borrowers were existing credit-card holders, or that repayment was routed through the credit-card accounts, does not alter the character of the transaction. The interest so charged, having no direct and proximate nexus with any taxable service, is not liable to Service Tax. The contrary view taken in the impugned order is, therefore, unsustainable.

17. We find that the regulatory framework governing credit-card operations also lends support to the appellant's

contention. The RBI guidelines, including the Master Circular on Credit Card Operations dated 09.07.2010 and the subsequent directions, recognise facilities such as conversion of outstanding credit-card dues into equated monthly instalments (EMIs) and other similar facilities as lending arrangements. Such facilities are governed by the norms applicable to loans and advances. The regulatory treatment, therefore, reinforces that, in respect of such facilities, the relationship between the appellant and the cardholder is essentially that of creditor and debtor, notwithstanding that the facility is offered through the credit-card platform. The RBI directions further fortify this conclusion. The RBI framework separately recognises loans and advances offered through credit cards and requires such facilities to comply with the instructions applicable to loans and advances. The directions also mandate disclosure of the principal, interest and other components when credit-card transactions are converted into EMIs. Thus, the regulatory framework itself draws a distinction between the core credit-card facility and loan products offered through the card. The RBI's accounting and reporting framework also maintains a clear distinction between interest income on loans and advances and fee or commission income arising from credit-card services. Interest earned on loans and advances is separately recognised as interest income, whereas credit-card fees and charges form part of other operating income. This distinction is significant, as it reflects the substantive character of the income rather than merely the mode through which the facility is offered.

18. We also find merit in the reliance placed by the appellant upon the CBEC Education Guide, 2012 and Circulars dated 17.09.2004 and 28.02.2006, which clarify that interest on loans, advances and deposits, including additional or penal interest, is not chargeable to Service Tax and does not form part of the value of taxable services. These departmental clarifications are consistent with the distinction between interest arising from lending transactions and consideration for the provision of a taxable service. It is settled that departmental circulars are binding upon the Department, as held by the Hon'ble Supreme Court in *Commissioner of Central Excise v. Ratan Melting & Wire Industries, 2008 (231) E.L.T. 22 (S.C.).* The said clarifications, read with the statutory provisions and judicial precedents noticed above, reinforce the conclusion that interest arising from loans and advances cannot be subjected to Service Tax merely because the lending facility is extended through a credit-card account.

19. The documentary evidence on record also establishes the true nature of the transactions. The call transcripts relating to “Loan on Phone”, “Dial-an-EMI” and “Balance Conversion” show that the appellant communicated to the cardholders the loan amount, rate of interest, tenure, EMI payable and pre-closure terms, which were accepted by the customers. The Welcome Letters and credit-card statements similarly disclose the principal and interest components and the applicable repayment schedule. These features are characteristic of a lending transaction. The use of the credit-card platform for facilitating or servicing the loan does not alter its essential character. The transaction remains one of lending and borrowing, with interest accruing on the amount advanced. In our considered view, therefore, the regulatory and documentary evidence, when considered cumulatively, establishes that the facilities in question are loans or advances extended to the cardholders and that the amounts received by way of interest represent the return on such lending. The mere fact that the lending facility is made available through, or operated by using, the credit-card platform cannot convert interest arising from such lending into consideration for the provision of credit-card services. The interest component consequently retains its character as interest on loans and advances and cannot be subjected to Service Tax as consideration for a taxable service.

20. Significantly, we find that the impugned order itself, particularly in paragraphs 6.1 to 8, records that specific amounts were sanctioned to the customers, repayable in instalments together with interest over a defined tenure. The system records relied upon in the impugned order also disclose the principal amount, interest, tenure and outstanding balance. These features, in our view, are the essential characteristics of a loan transaction. The adjudicating authority, however, has proceeded to treat the transactions as taxable credit-card services merely because they were routed through the credit-card accounts. Such an approach, in our considered view, is unsustainable. The Welcome Letter issued by the appellant further corroborates the nature of the transaction as a credit facility repayable with interest. The reflection of EMI amounts in the credit-card statement is merely a mode of accounting and recovery and cannot determine the substantive character or taxability of the transaction.

21. We find further support for the aforesaid conclusion from the Larger Bench decision of this *Tribunal in Standard Chartered Bank v. CST, 2015 (40) S.T.R. 104 (Tri.-LB),* wherein the scope and essential characteristics of a credit-card service were examined. The Larger Bench noticed

that a conventional credit-card transaction involves a multi-party arrangement comprising the cardholder, merchant establishment, issuing bank, acquiring bank and card association, each performing distinct functions in the authorization, processing and settlement of the transaction. The transactions in the present case are fundamentally different. The EMI loan facilities are bilateral arrangements between the appellant and the cardholder, involving the sanction and disbursement of a specified amount, repayment over a defined tenure and payment of interest. No merchant establishment, acquiring bank or card association is involved in the lending transaction. The essential features of a conventional credit-card transaction, as identified by the Larger Bench, are thus absent. We are, therefore, unable to accept the contention that the mere use of the credit-card account as a medium for disbursement, accounting or recovery would bring such transactions within the ambit of credit-card services. The substantive nature of the transaction being one of lending and borrowing, the EMI loan facilities are, in our considered view, loans and advances and not credit-card services. The contrary finding in the impugned order is consequently not sustainable.

22. We find that the reliance placed by the Department on *Mahindra Holidays & Resorts India Ltd. v.*

CCE, 2014 (34) S.T.R. 422 (Tri.-Chennai), is misplaced. The said decision arose in the context of time-share/holiday membership schemes, where instalments represented consideration for the underlying service and not repayment of a loan. The issue, therefore, was one of valuation of a taxable service and not the taxability of interest arising from a lending transaction. There was no lender-borrower relationship in that case. The transactions before us are fundamentally different, being loans and advances carrying interest. Further, reliance upon an interim or stay order cannot constitute a basis for determining the taxability of the present transactions, as such an order neither finally determines the issue nor constitutes a declaration of law. The decision relied upon by the Department, therefore, has no application to the facts of the present case.

23. We find that the same reasoning applies to additional or penal interest charged on delayed payment of EMIs. Such amounts are levied on the outstanding loan amount upon default and are compensatory in nature, representing consideration for the continued use or retention of money. Merely because the interest is described as "additional" or "penal" does not alter its essential character as interest arising from the underlying loan transaction. We also find merit in the appellant's reliance upon the decisions

of the Tribunal in *Bajaj Finance Ltd. v. CCE & GST, Pune-I, 2023 (8) TMI 473, Ashiana Housing Ltd. v. CST, Jaipur, 2024 (5) TMI 795 (Tri.-Del.),* and *Balajee Loha Pvt. Ltd. v. CCE, Final Order dated 02.06.2025,* wherein it has been consistently held that penal or additional interest charged on delayed payments retains the character of interest and cannot be treated as consideration for any taxable service. Such amounts are merely compensatory and arise directly from the principal transaction; they cannot be artificially re-characterised as consideration for "tolerating an act" under Section 66E(e) of the Finance Act, 1994. The aforesaid position also stands clarified in GST Circular No. 102/21/2019-GST dated 28.06.2019, wherein it has been stated that additional or penal interest on delayed payments continues to be in the nature of "interest" and does not fall within the scope of agreeing to tolerate an act. Though issued under the GST regime, the clarification reflects the settled legal principle regarding the character of such receipts. The consistent judicial view, therefore, is that interest, whether normal or penal, represents compensation for the time value of money and not consideration for any independent service. Applying these principles, we hold that the additional or penal interest collected by the appellant on delayed payment of loan instalments cannot be subjected to Service Tax, including under Section 66E(e) of the Finance

Act, 1994. The contrary finding in the impugned order is, therefore, unsustainable.

Issue No. (ii): Sustainability of demand on limitation and imposition of penalties

24. The next issue for consideration is whether the demand is sustainable on limitation and whether penalty under Section 78 of the Finance Act, 1994 is imposable. The impugned order, in Para 9-10, seeks to justify the invocation of the extended period under the proviso to Section 73(1) on the ground that the appellant failed to discharge its tax liability and suppressed material facts. We are unable to accept this reasoning. Mere non-payment of tax in a self-assessment regime does not, by itself, amount to suppression. Invocation of the extended period requires suppression or wilful misstatement with intent to evade payment of tax. The mere fact that the appellant is a banking institution and is expected to be aware of its statutory obligations cannot substitute this essential requirement.

25. The dispute in the present case is essentially interpretational, concerning the taxability of interest arising from EMI-based loan transactions routed through credit-card accounts. The appellant had consistently treated such receipts as interest on loans, relying upon the statutory

provisions, judicial precedents. The relevant transactions were duly recorded in its books and financial statements. There is no evidence of concealment, misstatement or withholding of any material fact. On the contrary, the record establishes that the Department was aware of the appellant's activities well before the issuance of the present proceedings. An earlier Show Cause Notice dated 16.02.2007 had been issued in relation to credit-card services. This was followed by an EA-2000 audit covering January 2008 to November 2012, during which the Department called for and examined the appellant's financial statements, agreements, income heads and Service Tax records. Subsequent audit proceedings were also undertaken in 2015. The appellant's activities and income streams were, therefore, within the knowledge of the Department. In these circumstances, the allegation of suppression or wilful misstatement cannot be sustained. The contemporaneous Chartered Accountant's opinion dated 08.08.2014, treating "Loan on Phone", "Balance Conversion" and EMI facilities as loans and opining that the interest thereon was not liable to Service Tax, is also a relevant circumstance demonstrating the appellant's bona fide understanding of the legal position.

26. The settled legal position is that mere non-payment of duty or tax is insufficient to invoke the extended

period. In *Uniworth Textiles Ltd. v. CCE, 2013 (288) E.L.T. 161 (S.C.),* and *Continental Foundation v. CCE, 2007 (216) E.L.T. 177 (S.C.),* the Hon'ble Supreme Court held that suppression must be wilful and accompanied by the requisite intent. The same principle has been recognised in *Chamundi Die Cast Pvt. Ltd. v. CCE, 2007 (215) E.L.T. 169 (S.C.), Larson & Toubro Ltd. v. CCE, 2007 (211) E.L.T. 513 (S.C.),* and *CCE & ST v. Krishnaraj Shipping Co. Ltd., 2024 (388) E.L.T. 140 (S.C.),* particularly where the dispute is essentially interpretational. In *Citibank N.A. v. Commissioner of Service Tax, 2021 (12) TMI 483 (S.C.),* the Hon'ble Supreme Court, while considering the taxability of transactions routed through credit-card accounts, also examined limitation and held that, where the issue is interpretational and the transactions are duly recorded and within the Department's knowledge, the extended period is not invocable in the absence of suppression or wilful misstatement with intent to evade tax. The ratio applies squarely to the present case.

27. The reliance placed by the adjudicating authority on the self-assessment regime is equally misplaced. Self-assessment does not render every instance of non-payment of tax a case of suppression. Where the relevant particulars are disclosed in the statutory records and are available to the Department, failure to scrutinise or object to the same within

the normal period cannot subsequently be converted into an allegation of suppression. The reliance on *Collector v. Mehta & Co., 2011 (264) E.L.T. 481 (S.C.),* is also misplaced. The said decision turned upon the assessee's failure to correctly disclose material particulars and is distinguishable on facts. In the present case, there is no finding supported by evidence of any misdeclaration or suppression. The transactions and income were duly recorded and had been subjected to departmental scrutiny and audit. We also find no merit in the reliance placed upon Union of India v. Dharmendra Textile Processors for imposition of penalty. While the decision recognises penalty as a civil liability where the statutory conditions are satisfied, it does not dispense with the necessity of establishing the foundational facts required under Section 78, namely, fraud, collusion, wilful misstatement or suppression of facts with intent to evade payment of tax. Those ingredients are absent in the present case. In the case *Krishnaraj Shipping Co. Ltd. Vs. Commissioner of Central Excise and Service Tax, Rajkot [2024 15 CENTAX 78 (Tri.-Ahmd.)]* which is affirmed by the Hon'ble Supreme Court reported in *[2024 (388) ELT 140 (SC)]* held that, where the dispute arises from a *bona fide* interpretation of law and the material facts are within the Department's knowledge, neither the extended period nor penalty under Section 78 can be sustained. We find the ratio applicable to the facts before us.

28. Having regard to the cumulative circumstances—namely, the prior Show Cause Notice, departmental audits, disclosure of the relevant transactions in the appellant's records, the contemporaneous professional opinion and the interpretational nature of the dispute—we find no material establishing fraud, suppression, wilful misstatement or intent to evade payment of tax. The extended period under the proviso to Section 73(1) is, therefore, not invocable. For the same reason, the essential ingredients for imposition of penalty under Section 78 are absent. The appellant's conduct cannot be characterised as contumacious or mala fide merely because the Department has taken a different view of the taxability of the receipts. The demand, to the extent covered by the extended period, is accordingly barred by limitation and the penalty imposed under Section 78 is liable to be set aside.

29. In view of the foregoing discussion and findings, we hold that the interest earned by the appellant on EMI-based loan transactions, including additional or penal interest charged for delayed payment, represents consideration for the use of money and not for the provision of any taxable

service. The transactions in question are, in substance, loans and advances, and the interest arising therefrom is excluded from the levy of Service Tax under the applicable statutory provisions, both under the pre-negative-list regime and, with effect from 01.07.2012, under Section 66D(n) of the Finance Act, 1994.The attempt to re-characterize such interest as consideration for credit-card services or as consideration for “tolerating an act” under Section 66E(e) is, in our view, contrary to the statutory scheme and the principles laid down in the judicial precedents discussed hereinabove. We further hold that the demand, insofar as it is raised by invoking the extended period of limitation, is unsustainable. The dispute is essentially interpretational; the relevant transactions were duly recorded in the appellant’s books and statutory records and were within the knowledge of the Department, as evidenced by the earlier proceedings and audits. In the absence of any material establishing suppression, fraud or wilful misstatement with intent to evade payment of tax, the extended period under the proviso to Section 73(1) cannot be invoked. Consequently, the penalty under Section 78 is also unsustainable.

30. For the reasons recorded hereinabove, the impugned Order-in-Original No. 59/2016-17 dated

30.11.2016 is set aside in toto. The appeal is allowed with consequential relief, if any, in accordance with law.

(Order pronounced in open court on 07.09.2026)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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