CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. I

Service Tax Appeal No. 41248 of 2017

(Arising out of Order-in-Original No. CHN-SVTAX-001-COM-88-96/2016 dated 10.02.2017 passed by Commissioner of Service Tax, Newry Towers, Plot No. 2054, I Block, II Avenue, Anna Nagar, Chennai – 600 040)

M/s. Canbank Factors Limited **...Appellant**
No. 770/A, Spencer Tower Annexe,
Anna Salai,
Chennai – 600 002.

Versus

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

APPEARANCE:

For the Appellant : Smt. Vijayalakshmi, Manager
For the Respondent : Shri G. Krupa, Authorised Representative

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

FINAL ORDER No. 41049 / 2026

DATE OF HEARING : 10.07.2026
DATE OF DECISION : 23.09.2026

Per Mr. VASA SESHAGIRI RAO

This appeal has been filed by M/s. Canbank Factors Limited (hereinafter referred to as "the appellant") against Order-in-Original No. CHN-SVTAX-001-COM-88-96-2016-2017 dated 10.02.2017 (hereinafter referred to as "the impugned order") passed by the Principal Commissioner of

Service Tax-I, Chennai (hereinafter referred to as "the Impugned order").

2. The facts, as briefly stated, are that the appellant, a non-banking financial company engaged in factoring services and registered under the taxable category of Banking and Other Financial Services, claimed exemption under Notification No.29/2004-ST dated 22.09.2004 in respect of discounting/bank charges. Pursuant to departmental audit, SCN No.386/2010 dated 26.07.2010 was issued proposing demand of service tax of Rs.21,33,22,120/- for the period October 2006 to March 2009, followed by further SCNs/Statements of Demand for subsequent periods on the same issue. The appellant maintained that service tax had been discharged on factoring and processing charges and that the discounting charges which represent interest, were separately accounted for. Upon adjudication, the Principal Commissioner accepted the discounting charges as exempt under Notification No.29/2004-ST, but confirmed service tax of Rs.1,26,841/-, including cess, on certain amounts shown as Bank Charges, along with interest and penalty under Section 78 of the Finance Act, 1994, while dropping the balance demand and the proceedings arising from the subsequent SCNs/SODs. The appellant, having paid Rs.3,10,282/- comprising the confirmed dues, interest and

25% of penalty under protest on 13.03.2017, is aggrieved by the confirmation of the said demand and is before this Tribunal in appeal.

3.1 The Manager of CANBANK Factors Smt. Vijayalakshmi appeared for the appellant submitted that the Department had itself accepted in the earlier Order-in-Original No.2/2007 dated 25.06.2008 that the bank charges collected by the appellant represented interest on cheque discounting. The said order, after examining the appellant's books, trial balance and monthly statements, dropped the demand for 2003-04. The appellant had consistently followed the same accounting practice thereafter. The earlier order specifically recorded that the cheque-discounting charges were separately accounted for and reflected in the monthly statements furnished to clients.

3.2 It was further submitted that Notification No.29/2004-ST dated 22.09.2004 expressly exempts, in relation to discounting of bills, bills of exchange or cheques, the amount equivalent to the interest on such discount, subject to prescribed conditions. The appellant's monthly statements separately reflected factoring charges, discount charges and bank charges. It was therefore contended that merely because the appellant internally accounted for cheque-discounting charges under the nomenclature "Bank Charges", the substantive character of the receipt could not be altered.

3.3 Without prejudice, Smt. Vijayalakshmi, Representative of the Appellant Bank submitted that the Department itself had described the bank charges as expenses recovered from clients on a reimbursable basis. Such reimbursement could not form part of the taxable value for the period prior to the amendment of Section 67 in 2015. Reliance was placed on the judgment of the Hon'ble Apex Court in *Union of India v. Intercontinental Consultants & Technocrats Pvt. Ltd., 2018 (10) G.S.T.L. 401 (S.C.).*

3.4 On limitation, the Representative of the appellant submitted that the Department was already aware of the appellant's accounting practice. The issue had earlier been adjudicated in Order-in-Original No. 2/2007 and the proceedings had been dropped. The CERA audit had brought the matter to the knowledge of the Department. It is not disputed that the appellant had consistently disclosed the relevant receipts in its books and returns. There was therefore no suppression of facts with intent to evade payment of service tax. The extended period under the proviso to Section 73(1) was consequently not invocable.

4. The Ld. Authorized Representative Smt. G. Krupa supported the impugned order and submitted that Notification No.29/2004-ST exempted only the amount equivalent to interest on discounting and did not exempt ordinary bank charges, cheque issuing charges or other expenses. It was submitted that the impugned order had correctly distinguished the discounting charges from the bank charges and that the appellant had wrongly claimed exemption in respect of the latter.

5. We have carefully considered the submissions, examined the impugned order, the earlier Order-in-Original No.2/2007 dated 25.06.2008, the SCNs/SODs, the appellant's correspondence and the ledger records. The issues for determination are whether the Bank Charges of Rs.10,33,215/-, on which service tax of Rs.1,26,841/- was confirmed, are taxable receipts and whether the extended period and penalty under Section 78 are sustainable.

6. The earlier Order-in-Original No.2/2007 dated 25.06.2008, though relating to an earlier period, is relevant regarding the appellant's accounting practice. After examining the appellant's records, the Department had accepted that the bank charges represented interest relating to cheque discounting, were separately accounted for and

were reflected in the statements furnished to clients, and had dropped the proceedings. There is no material on record showing any change in the nature or accounting of the receipts during the period presently involved.

7. Notification No.29/2004-ST exempts, in relation to discounting of bills, bills of exchange or cheques, so much of the value of the taxable service as is equivalent to the interest on such discount, subject to separate disclosure of the interest amount. The impugned order itself accepts that the Discounting Charges represented interest and were exempt, but confirmed the residual amount merely because it was accounted for under the head "Bank Charges". The ledgers, however, show that this account contained various entries relating to cheque charges, realization charges and charges debited by banks.

8. Significantly, the impugned order itself describes the Bank Charges as "Cheque issuing charges and other expenses recovered from their clients as reimbursable charges". The Department has not undertaken a transaction-wise examination to establish that the entire Rs.10,33,215/- represented consideration for a taxable service rendered by the appellant. Mere classification under the internal ledger head "Bank Charges" cannot, by itself, establish taxability.

To the extent the amounts represent interest/discount, they are covered by Notification No.29/2004-ST; to the extent they represent actual bank expenses reimbursed by clients, they cannot be treated as a consideration for a taxable service for the period in question. The principle laid down by the Hon'ble Supreme Court in *Union of India v. Intercontinental Consultants & Technocrats Pvt. Ltd., 2018 (10) G.S.T.L. 401 (S.C.),* also supports exclusion of reimbursable expenses from taxable value for the relevant period.

9. We therefore hold that the Revenue has failed to establish the taxable character of the confirmed Bank Charges and the demand of Rs.1,26,841/- is unsustainable on merits.

10. The extended period is also not invocable. The appellant's books and ledgers contained the relevant entries, the issue was examined during departmental/CERA audit, and the same accounting practice had earlier been considered by the Department in OIO No.2/2007. There is no evidence of deliberate suppression, wilful misstatement or concealment with intent to evade service tax. The dispute is essentially one of interpretation regarding the taxability of the receipts.

11. In view of the above, the extended period under the proviso to Section 73(1) is unavailable to the Revenue and, the entire confirmed demand being beyond the normal period, the demand is barred by limitation as well. Consequently, the penalty under Section 78 cannot survive.

12. In view of the foregoing, we allow the appeal and set aside Order-in-Original No. CHN-SVTAX-001-COM-88-96-2016-2017 dated 10.02.2017 to the extent it confirms service tax of Rs.1,26,841/-, together with interest and penalty under Section 78 of the Finance Act, 1994. The appellant shall be entitled to consequential relief, including refund of the amount paid under protest, if otherwise admissible in accordance with law. The appeal is disposed of accordingly.

(Order pronounced in open court on 23.09.2026)

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

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

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