

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
MUMBAI**

REGIONAL BENCH - COURT NO. I

**Service Tax Miscellaneous Application No. 86940 of 2025
In
Service Tax Appeal No. 87110 of 2016**

[Arising out of Order-in-Original No. 24/STC-V/SKD/16-17 dated 08.06.2016 passed by the Commissioner of Service Tax, Mumbai-V]

Birla Sun Life Insurance Co. Ltd.

.... Appellant

One India Bulls Centre, Tower 1, 16th Floor,
Jupiter Mill Compound, 841, S.B. Road,
Elphinstone Road, Mumbai

Versus

Commissioner of CGST, Mumbai Central

.... Respondent

GST Bhavan, 115, Maharshi Karve Road,
Opp. Churchgate Station,
Mumbai 400 020.

APPEARANCE:

Shri S.S. Gupta, Chartered Accountant for the Appellant

Ms. S. Varalaskshmi, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 85745/2026

Date of Hearing: 10.04.2026

Date of Decision: 10.04.2026

PER: S.K. MOHANTY

Applicant/appellant has filed this miscellaneous application, seeking change of name of the respondent in the cause title to the appeal filed before the Tribunal. The application is considered, and accordingly the respondent's name in the cause title is amended to read as "*Commissioner of CGST, Mumbai Central*", having address at GST Bhavan, 115, Maharshi Karve Road, Churchgate, Mumbai 400 020.

2. Heard both sides and examined the records.

3. Briefly stated, the facts of the case are that the appellants are engaged *inter alia*, in providing life insurance services to their clients. As per the terms and conditions in the contracts entered into between the appellants and their clients as the policy holders, it has been specified that life insurance services including ULIP is to be provided by the appellants during the course of their business activities. The dispute involved in the present appeal relates to levy of service tax on surrender charges, policy discontinuation charges, foreclosure charges, reinstatement charges recovered by the appellants from their policy holders. The show cause notice dated 22.10.2013 issued in this regard was adjudicated vide the impugned order dated 08.06.2016 passed by the Commissioner of Service Tax, Mumbai-V, in confirming the proposals made therein. Feeling aggrieved with the impugned order dated 08.06.2016, the appellants have preferred this appeal before the Tribunal.

4. We find that the issue arising out of the present dispute for confirmation of service tax on surrender charges, discontinuation charges and foreclosure charges is no more *res integra*, in view of the orders passed by the coordinate Bench of the Tribunal in the case of *Bharti-AXA Life Insurance Co. Ltd. [2022 (56) GSTL 11 (Tri-Mumbai)]*, *Tata AIA Life Insurance Co. Ltd. [2022 (12) TMI 600 –CESTAT]* and *ICICI Prudential Life Insurance Co. Ltd. [2022-TIOL-894-CESTAT Mumbai]*. Considering those orders passed on an identical set of facts, we are of the view that the service tax demands confirmed by the adjudicating authority on the surrender charges, discontinuation charges and foreclosure charges are liable to be set aside. Accordingly, the impugned order confirming the adjudged demands on those services is set aside and the appeal to such extent is allowed in favour of the appellants.

5. With regard to the demand confirmed on reinstatement charges recovered by the appellants from their policy holders, learned Chartered Accountant appearing for the appellants submitted that such issue has already been decided negatively by the Tribunal in the case of *ICICI Prudential Insurance Co. Ltd. [2022-TIOL-894-CESTAT Mumbai]*. However, he has pleaded that since there was *bona fide* belief that no service tax is payable on provision of taxable service, the penalty imposed under Section 78 of the Finance Act, 1994 should be set aside. On perusal of the case records, more particularly the order dated 16.09.2022 passed by the Coordinate Bench of the Tribunal in the case of *ICICI Prudential Insurance*

Co. Ltd. (supra), we do not find any justifiable ground in favour of the appellant in support of non-imposition of penalty under Section 78 *ibid* inasmuch as a pioneer in the insurance business, it cannot be said that they were not aware about their liability for payment of service tax on provision of such taxable service. Considering the similar facts involved in the case of *ICICI Prudential Insurance Co. Ltd.* (supra), the Co-ordinate Bench has not only confirmed the service tax demand, but also upheld imposition of penalty on the said appellant. The relevant paragraphs in the said order recorded by the Tribunal are quoted herein below:-

"7. As well as 'reinstatement charge' is concerned, the termination leading to 'foreclosure charge' is pre-empted by such payment upon issue of the mandatory notice prior to the erasure of the relationship between the insurance company and the policyholder. The consequence of such notice and the response on the part of the policyholder, restores the relationship to that of provider and recipient. The charge cannot, therefore, be considered to be a preliminary before the relationship commences but is intended to facilitate the continuance of the relationship which was in jeopardy by non-compliance with the conditions of contract. The restoration of the relationship of provider-recipient is contingent upon such additional fee which cannot, in the circumstances of such restoration, be anything other than consideration for the continuance of 'taxable service' and, therefore, liable to service tax. The case of the appellant against the levy of tax on 'reinstatement charge' does not fit in with the matrix that excludes 'surrender charge' and 'foreclosure charge' from the ambit of tax. The impugned order cannot be faulted to that extent.

8. In view of findings supra, we set aside the demand of tax on 'foreclosure charge' and 'surrender charge' while upholding the tax liability of 'reinstatement charge' in the impugned order. The appellant contends that the extended period is not applicable to them and, thereby, should discharge them of tax liability as well as the consequent penalty. The appellant is engaged, and specialised, in insurance business. The nature of the charges levied from policyholders is most abundantly clear to them. The provisions of section 65 of Finance Act, 1994 and section 65B of Finance Act, 1994 have no scope for doubt on the taxability and the failure to discharge the tax on 'reinstatement charge' cannot but be considered as deliberate evasion on their part. The justification offered for absence of intent to evade does not appear convincing. Therefore, the penalties arising from, and limited to, the 'reinstatement charge' is upheld. Appeal is, accordingly, disposed of."

6. In view of the above, the impugned order, to the extent it has confirmed the adjudged demands on the appellants for provision of taxable service under the category of 'reinstatement charges' recovered by the appellants from their customers sustains and the appeal to such extent filed by the appellants is dismissed.

7. In the result, the appeal is partly allowed.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

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