CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. I

Service Tax Appeal No. 41405 of 2017

(Arising out of Order-in-Appeal No. 77/2017 (STA-II) dated 10.03.2017 passed by Commissioner of Service Tax (Appeals-II), Newry Towers, Plot No. 2054, I Block, II Avenue, Anna Nagar, Chennai – 600 040)

M/s. Shriram Automall India Ltd. **...Appellant**
Mookambika Complex, 4,
Lady Desika Road, Mylapore,
Chennai – 600 004.

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 : Ms. Mathangi G., Advocate
For the Respondent : Ms. K. Vijaya Sree, Authorised Representative

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

FINAL ORDER No. 41178 / 2026

DATE OF HEARING : 15.07.2026
DATE OF DECISION : 11.11.2026

Per Mr. VASA SESHAGIRI RAO

This appeal is filed by M/s. Shriram Automall India Limited, hereinafter referred to as "the appellant", against Order-in-Appeal No.77/2017 (STA-II) dated 10.03.2017 passed by the Commissioner of Service Tax (Appeals-II), Chennai. The appellant is engaged in operating

Automalls and in facilitating/trading in used commercial vehicles and was registered with the Service Tax Department under the taxable category of Business Auxiliary Service. During departmental audit of its records, Show Cause Notice No.09/2015 dated 23.01.2015 was issued proposing recovery of Rs.17,43,459/- towards alleged short reversal of CENVAT credit attributable to trading under Rule 6 of the CENVAT Credit Rules, 2004, denial of CENVAT credit of Rs.88,309/- towards allegedly ineligible input services and recovery of Rs.23,68,320/- towards credit allegedly availed on expenditure treated by the Department as capital-goods expenditure, together with interest and penalty. The Original Authority confirmed the disputed demands by Order-in-Original No.19/2015-16/ST-II dated 20.07.2016 and imposed penalty under Section 78 of the Finance Act, 1994 read with Rule 15 of the CENVAT Credit Rules, 2004. A corrigendum dated 02.08.2016 was thereafter issued in relation to appropriation of the amount already paid by the appellant. In appeal, the Commissioner (Appeals) upheld the Rule 6 demand of Rs.17,43,459/- insofar as it related to 2010-11, remanded for computation for 2011-12 for re-determination under the applicable formula, remanded the Rs.66,950/- component of the input-service dispute, sustained the remaining Rs.21,359/- and treated the Rs.23,68,320/- issue as academic on the ground that the

appellant had already reversed the amount. Aggrieved by the said order, the appellant is before this Tribunal.

2.1 The Ld. Advocate Ms. G. Mathangi for the appellant, submitted that the proceedings arose from audit of the appellant's books and statutory records, which were regularly maintained and disclosed. The appellant had filed ST-3 returns, made proportionate reversals and had also paid Rs.11,66,784/- with interest in January 2013. The dispute was essentially interpretational and concerned the statutory treatment of trading under the CENVAT Credit Rules, without any concealment or intent to evade.

2.2 On the trading-related demand, learned Counsel submitted that prior to 01.04.2011 the treatment of trading as an "exempted service" under Rule 6 was itself disputed, and the Explanation expressly including trading was introduced only with effect from 01.04.2011. Reliance was placed on *Super Packs v. Commissioner of Central Excise, Service Tax & Customs, Bangalore-II, 2019 (370) E.L.T. 691 (Tri.-Bang.), Assistant Commissioner of GST & Central Excise v. Shriram Value Services Pvt. Ltd., 2019 (368) E.L.T. 928 (Mad.), etc*. For 2011-12, it was submitted that the statutory formula prescribed from 01.04.2011 had to be correctly applied and that the Department could not mechanically

adopt 10% of sales. The appellant also claimed credit for reversals already made. It was further submitted, relying on Super Packs, that services covered by Rule 6(5), during the period when that provision was in force, were protected from the general restrictions under Rule 6(1) to (3).

2.3 In respect of the Rs.88,309/- input-service credit, learned Counsel submitted that the disputed services were connected with the appellant's business and included CBRE property-valuation services relating to leased Automalls, company-secretarial services, employee group insurance, publicity connected with the Panvel Automall launch and other related services. Reliance was placed on *Cadmach Machinery Co. (P) Ltd. v. Commissioner of Central Excise, Ahmedabad, 2013 (31) S.T.R. 33 (Tri.-Ahmd.), Commissioner of Service Tax, Bangalore v. Yodlee Infotech (P) Ltd., 2015 (39) S.T.R. 695 (Tri.-Bang.)* and *Commissioner of Central Excise, Bangalore-III v. Stanzen Toyotetsu India (P) Ltd., 2011 (23) S.T.R. 444 (Kar.),* contending that business-related and employee-related services could not be excluded without examining their statutory nexus and purpose.

2.4 As regards Rs.23,68,320/-, the Ld. Advocate submitted that the Department had wrongly treated the

credit as relating to "capital goods". The amount represented Service Tax paid on input services such as rent, engineering/space-design, installation, modernisation and communication services used for establishing and operating Automalls. Capitalisation in the accounts, it was submitted, could not convert a service into "capital goods" under Rule 2(a). Reliance was placed on *Commissioner of Central Excise, Delhi-III v. Bellsonica Auto Components India Pvt. Ltd., 2015 (40) S.T.R. 41 (P&H)* and *Cadmach Machinery Co. (P) Ltd., supra.*

2.5 On limitation and penalty, learned Counsel submitted that the disputed transactions, payments and reversals were reflected in the appellant's books, CENVAT records and statutory returns, with no fraud, wilful misstatement, suppression or intent to evade Service Tax. Reliance was placed on Assistant *Commissioner of GST & Central Excise v. Shriram Value Services Pvt. Ltd., 2019 (368) E.L.T. 928 (Mad.); Cosmic Dye Chemical v. Collector of Central Excise, Bombay, 1995 (75) E.L.T. 721 (S.C.); R.R. Polymers v. Commissioner of GST & Central Excise, Madurai, 2025 (1) TMI 1375 (CESTAT Chennai); Pallipalayam Spinners Pvt. Ltd. v. Commissioner of GST & Central Excise, Salem, 2025 (1) TMI 388 (CESTAT Chennai);* and *Hindalco Industries Ltd. v. Commissioner, Central GST, Central Excise*

& Customs, Jabalpur, 2019 (5) TMI 1620 (CESTAT New Delhi), in support of the submission that bona fide belief and availability of the relevant records, despite subsequent audit detection, did not justify invocation of the extended period or consequential penalty.

3. The Ld. Authorized Representative Ms. K. Vijaya Sree appearing for the Revenue, supported the impugned order and submitted that trading was required to be treated as an exempted service under Rule 6, necessitating reversal of common input-service credit attributable thereto. The Revenue defended the computation for 2010-11 and contended that the statutory formula applicable from 01.04.2011 had been correctly applied thereafter. It was further submitted that the disputed input services lacked sufficient nexus with the appellant's output service and that group critical-illness insurance was covered by the exclusion under Rule 2(l)(C). As regards Rs.23,68,320/-, the Revenue contended that the expenditure had been capitalised and was therefore ineligible for credit. On limitation, the invocation of the extended period was supported on the ground that the discrepancies were detected only during departmental audit.

4. On consideration of the rival submissions and the records, the following questions arise for determination: -

i. Whether there is any justification for invoking extended period of limitation in the facts of this appeal?

ii. Whether the demand of Rs.17,43,459/- towards reversal of CENVAT credit attributable to trading is sustainable under Rule 6 of the CENVAT Credit Rules, 2004?

iii. Whether the denial of Rs.88,309/- towards input-service credit and the demand of Rs.23,68,320/- relating to alleged capital-goods credit are sustainable?

Issue No. (i): -LIMITATION, INTEREST and PENALTY

5. Since limitation goes to the very recoverability of the demand, we consider it appropriate to examine this issue first. The Show Cause Notice dated 23.01.2015 covers, inter alia, the financial years 2010-11 and 2011-12, invoking the extended period. During the entire disputed period, Section 73(1) of the Finance Act, 1994 prescribed a normal period of one year from the relevant date. The demands for the said periods must, therefore, be tested against the normal limitation of one year and can survive beyond that period only if the extended period under the proviso to Section 73(1) is validly invoked.

6. On limitation and penalty, the appellant submitted that the proceedings originated from departmental

audit of its books of account, ST-3 returns filed and other records and that the transactions, CENVAT credit, payments and reversals were reflected therein. It was contended that the appellant had acted under a bona fide belief regarding the eligibility and computation of credit, particularly in view of the statutory changes relating to trading and input-service credit. Reliance was placed on *Assistant Commissioner of GST & Central Excise v. Shriram Value Services Pvt. Ltd., 2019 (368) E.L.T. 928 (Mad.); Cosmic Dye Chemical v. Collector of Central Excise, Bombay, 1995 (75) E.L.T. 721 (S.C.); M/s. R.R. Polymers v. Commissioner of GST & Central Excise, Madurai, 2025 (1) TMI 1375 (CESTAT Chennai); M/s. Pallipalayam Spinners Pvt. Ltd. v. Commissioner of GST & Central Excise, Salem, 2025 (1) TMI 388 (CESTAT Chennai);* and *Hindalco Industries Ltd. v. Commissioner, Central GST, Central Excise & Customs, Jabalpur, 2019 (5) TMI 1620 (CESTAT New Delhi),* in support of the submission that availability of the relevant records and subsequent audit detection did not establish suppression, wilful misstatement or intent to evade. It was accordingly submitted that the extended period and consequential penalty were unsustainable.

7. We find that the present proceedings arose from an audit of the appellant’s records and that the trading

activity, input services, credit entries and expenditure in question were available in those records, from which the Department itself made the disputed computations. The appellant had also paid Rs.11,66,784/- with interest in January 2013 and claimed further reversals through its ST-3 returns, well before issuance of the Show Cause Notice. These circumstances materially militate against a finding that the relevant transactions or credit were deliberately withheld from the Department. Further, the dispute relating to trading involved interpretation of Rule 6, as reflected in the decisions relied upon by the appellant, particularly *Assistant Commissioner of GST & Central Excise v. Shriram Value Services Pvt. Ltd., 2019 (368) E.L.T. 928 (Mad.),* and *Super Packs v. Commissioner of Central Excise, Service Tax & Customs, Bangalore-II, 2019 (370) E.L.T. 691 (Tri.-Bang.).* Likewise, the disputes concerning input-service credit involved interpretation of the statutory definition and business nexus. The substantive question whether any credit was reversible is distinct from the independent requirement of establishing fraud, wilful misstatement, suppression of facts or contravention with intent to evade for invoking the extended period.

8. We now turn to the normal period of limitation. Section 73(6) of the Finance Act, 1994 prescribed the

relevant date with reference to the filing of the periodical return and, where no return was filed, the last date prescribed for filing such return. In the present case, the relevant ST-3 returns were ultimately filed only on 09.06.2015, after issuance of the Show Cause Notice. Accordingly, the statutory dates prescribed for filing the respective returns have to be considered for examining the limitation applicable when the notice was issued. The returns for April-September 2010 and October 2010-March 2011 were due on 25.10.2010 and 25.04.2011 respectively, while those for April-September 2011 and October 2011-March 2012 were due on 25.10.2011 and 25.04.2012 respectively. Each of these dates was more than one year prior to the Show Cause Notice dated 23.01.2015. The subsequent filing of the returns on 09.06.2015 cannot retrospectively extend the limitation applicable to a notice which had already been issued.

9. We therefore find that the demands relating to the disputed periods could survive only if the proviso to Section 73(1) was validly invoked. On the material available, we find no sufficient evidence of fraud, collusion, wilful misstatement, suppression of facts or contravention with intent to evade payment of Service Tax. Mere detection during audit of discrepancies arising from records maintained

by the appellant, particularly where payments and reversals had already been made and the dispute substantially involved interpretation, cannot by itself establish the requisite ingredients of the extended period. We accordingly hold that the extended period is not invocable and that the entire demand is barred by limitation.

Issue No. (ii) – TRADING AND RULE 6

10. At the outset, it may be noted that, in the preceding paragraphs, we have already held that the entire demand is not recoverable on the ground of limitation. Consequently, examination of the remaining issues is, strictly speaking, academic. However, since detailed submissions were advanced by both sides on the merits of the trading-related demand and as the matter has been argued at length, we deem it appropriate to briefly examine the same, without disturbing the finding already recorded on limitation.

11. As regards the trading-related demand of Rs.17,43,459/-, the statutory position for 2010-11 and 2011-12 has to be considered separately. The Explanation treating trading as an exempted service became operative with effect from 01.04.2011. Further, Notification No.13/2011-C.E.(N.T.) dated 31.03.2011 modified the manner of determining the value of trading for the purposes

of Rule 6. Therefore, for the period from 01.04.2011, the computation had to conform to the statutory formula applicable during that period.

12. The appellant's reliance on *Super Packs v. Commissioner of Central Excise, Service Tax & Customs, Bangalore-II, 2019 (370) E.L.T. 691 (Tri.-Bang.),* is relevant in this context. The decision recognised the independent operation of Rule 6(5), where applicable, notwithstanding the general restrictions under Rule 6(1) to (3), and also emphasised that any reversal attributable to trading has to be determined in accordance with the applicable statutory mechanism.

13. On the material available, the Department has not satisfactorily demonstrated that the demand of Rs.17,43,459/- was correctly quantified after giving due effect to the applicable statutory formula, the reversals already made by the appellant and the claim under Rule 6(5). The issue of correct quantification therefore also gives rise to a substantive dispute. However, since the entire demand has already been held to be barred by limitation, we do not consider it necessary to record a final determination on the substantive liability.

14. In view of the finding already recorded on limitation, the demand of Rs.17,43,459/- cannot be recovered. The demand confirmed for 2010-11 and the consequential remand for 2011-12 therefore do not survive. The discussion in the foregoing paragraphs is only an alternative examination of the merits and shall not dilute or alter the finding that the demand fails on limitation.

Issue No. (iii) — Input Services and Capital Goods

15. As already held in the preceding paragraphs, the entire demand in the present proceedings is not recoverable on the ground of limitation and so again examination of the present issue is also therefore largely academic. However, since both sides advanced detailed submissions on the merits, we deem it appropriate to briefly examine the disputed input-service and capital-goods credits as well.

16. The demand of Rs.88,309/- comprises different input services which have to be examined with reference to their actual nature and use. The record includes CBRE property-valuation services relating to the appellant's leased business properties, professional services of B. Chandra, Practising Company Secretary, expenditure relating to the Panvel Automall launch and group critical-illness insurance, besides other residual services.

17. The CBRE valuation services and the company-secretarial services have a discernible business nexus. The appellant relied upon *Cadmach Machinery Co. (P) Ltd. v. Commissioner of Central Excise, Ahmedabad, 2013 (31) S.T.R. 33 (Tri.-Ahmd.),* and *Commissioner of Service Tax, Bangalore v. Yodlee Infotech (P) Ltd., 2015 (39) S.T.R. 695 (Tri.-Bang.)*, in support of the proposition that input services having a nexus with the assessee's business cannot be denied merely because they are not directly used in providing the output service. On the material available, the Department has not established that these services were wholly unrelated to the appellant's business.

18. The expenditure relating to the Panvel Automall launch was also connected with publicity and promotion of the appellant's business. Advertisement and sales promotion were specifically covered within the definition of input service applicable during the relevant period. The Department has not brought on record sufficient material to establish that this expenditure had no nexus with the appellant's business.

19. The group critical-illness insurance requires separate consideration. The two relevant invoices carry Service Tax of Rs.6,532/- and Rs.5,950/-, aggregating to

Rs.12,482/-. On the material available, the appellant has not established that these policies fell outside the statutory exclusion applicable to life or health insurance used primarily for personal use or consumption of employees. We therefore do not disturb the denial of this component on merits. At the same time, the amount is not recoverable in the present proceedings since the extended period has already been held to be unavailable.

20. As regards the remaining portion of the Rs.88,309/- demand, the invoices have to be examined according to the nature and purpose of the respective services. The Commissioner (Appeals)'s description of the entire residual amount of Rs.21,359/- as group critical-illness insurance does not appear to correspond with the invoice-wise details, since the two insurance invoices themselves account for only Rs.12,482/-. In any event, having regard to the finding on limitation, no further recovery can arise from this component in the present proceedings.

21. The other dispute concerns Rs.23,68,320/-, which the Department treated as credit relating to capital-goods expenditure. The underlying documents, however, include engineering/design, installation, communication and rental-related services. The Space Design invoice dated

25.06.2010, for instance, relates to professional engineering services for the Chennai Automall. The record also contains documents relating to the appellant's leased business premises.

22. Capitalization of expenditure in the books of account is only an accounting treatment and does not, by itself, convert a service into "capital goods" within the meaning of Rule 2(a) of the CENVAT Credit Rules, 2004. Where the underlying invoices are for services, their eligibility has to be examined with reference to the applicable definition of "input service". The Department has not established that the disputed Rs.23,68,320/- represented specified goods falling within the statutory definition of capital goods. The principle relied upon by the appellant in *Commissioner of Central Excise, Delhi-III v. Bellsonica Auto Components India Pvt. Ltd., 2015 (40) S.T.R. 41 (P&H),* is relevant in this regard.

23. The appellant had also reversed Rs.23,68,320/- on 30.04.2011. Such reversal, by itself, cannot determine the original admissibility of the credit. The finding that the amount represented inadmissible capital-goods credit is therefore not sustainable on the material available. Since, in

any event, the demand is barred by limitation, this finding is recorded only as an alternative examination of the merits.

24. In view of the finding that the entire demand is barred by limitation, the consequential interest under Section 75 cannot survive. The penalty imposed under Section 78 of the Finance Act, 1994 read with Rule 15 of the CENVAT Credit Rules, 2004 also cannot be sustained, particularly when the ingredients necessary for invoking the extended period have not been established.

25. In view of the foregoing, the entire demand being barred by limitation, the demand of Rs.17,43,459/- towards trading is not recoverable. On merits, the CBRE valuation, company-secretarial and Panvel Automall promotional services have sufficient business nexus, the denial of group critical-illness insurance is not disturbed, and the finding treating Rs.23,68,320/- as capital-goods credit is unsustainable; these are only alternative findings.

26. The amounts already paid or reversed, including Rs.11,66,784/- with interest and Rs.23,68,320/- reversed on 30.04.2011, shall receive consequential treatment in accordance with the law without double recovery. Accordingly, Order-in-Appeal No.77/2017 (STA-II) dated

10.03.2017, arising from Order-in-Original No.19/2015-16/ST-II dated 20.07.2016 and corrigendum dated 02.08.2016, is set aside to the extent challenged.

27. The appeal is allowed with consequential relief, if any, in accordance with law.

(Order pronounced in open court on 11.11.2026)

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

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

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