

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHENNAI**

REGIONAL BENCH – COURT NO. III

**Service Tax Appeal No.41180 of 2016**

(Arising out of Order-in-Original No.275/2016 dated 26.05.2016 passed by Commissioner, Large Taxpayer Unit, 1775, Jawaharlal Nehru Inner Ring Road, Anna Nagar, Western Extension, Chennai-600 101.)

**M/s. Sify Technologies Ltd.,**

IInd Floor, Tidel Park,  
No.4, Rajiv Gandhi Salai,  
Taramani,  
Chennai-600 113.

**....Appellant**

***Versus***

**Commissioner of GST & Central Excise ... Respondent**

Chennai South Commissionerate  
MHU Complex,  
No.692, Anna Salai,  
Nandanam, Chennai-600 035.

**APPEARANCE:**

Shri Kiran Manokaran, Advocate for the Appellant  
Ms. Anandalakshmi Ganeshram, Authorized Representative  
for the Respondent

**CORAM:**

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)**

**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

**FINAL ORDER No.41482/2025****DATE OF HEARING: 04.07.2025**  
**DATE OF DECISION: 17.12.2025****Per: Shri P. Dinesha**

The present Appeal has been filed against the impugned *denovo* order passed by Commissioner of Service Tax vide Order-in-Original No.275/2016 dated 26.05.2016 pursuant to the remand direction in the CESTAT Final Order No.40058/2016 dated 08.01.2016, wherein the Tribunal remanded the matter to the Adjudicating Authority for the limited extent of examining the allocation of credit of common input services to departments rendering taxable services and those rendering exempted services thereby to pass a reasoned and speaking order and ordered that there shall be no penalty on the Appellant in the remand proceedings.

2. Brief and relevant facts of the case are that Appellant is engaged in providing services such as online information and database access/retrieval,

internet café, leased circuit, franchise, business auxiliary services, advertisement services etc. They also rendered non-taxable/exempt services such as software development, e-learning for corporates and companies, etc., during the period prior to 16.05.2008, after which these services became taxable. Earlier, prior to March 2008, they were availing and utilising Cenvat credit used in providing both taxable and exempted services, but not restricted the utilisation to 20% of the amount of service tax payable on the taxable output services, in terms of Rule 6(3) of Cenvat credit Rules, 2004. Initially, a SCN dt. 24.03.2009 was issued proposing to disallow the entire credit for wrong availment of credit taken on the common input services along with interest and penalty under Rule 15(3) of CCR 2004. The demand was confirmed vide OIO dt. 28.06.2010 which was challenged by Appellant in Appeal No.ST/645/2010 before Tribunal. Tribunal vide Final Order No.40058/2016 dt. 08.01.2016 remanded the matter to Adjudicating Authority for verification of allocation of credit of common input services to departments rendering taxable services and those rendering exempted services.

3. In the remand proceedings and after due process, the Original Authority confirmed the demand of Rs.13,36,742/- under Rule 14 of CCR 2004 read with Section 73 (1) of the Finance Act, 1994 *vide* impugned Order-in-Original No.275/2016 dated 26.05.2016. Unhappy with the demand, the present Appeal has been filed by the Appellant before this forum.

4. Heard Shri Kiran Manokaran, Id. Advocate for the Appellant and Smt. Anandalakshmi Ganeshram, Id. Assistant Commissioner for the Respondent, perused the records and the judicial precedents filed during the course of hearing.

5. The only issue that arises for our consideration is "whether cenvat credit of input services exclusively used for dutiable product should be taken or total cenvat credit of only common input service should be taken for the purpose of calculating the cenvat credit for reversal in terms of Rule 6(3A)" ?.

6. Facts are not in dispute; also, none of the parties has challenged the Final Order (*supra*) and hence, the same has become final.

7. In terms of Rule 6 (3) (ii) of CCR 2004, the manufacturer of goods or the provider of output service

shall pay an amount equivalent to the CENVAT credit attributable to inputs and input services used in, or in relation to, the manufacture of exempted goods or for provision of exempted services subject to the conditions and procedures laid down in sub-rule (3A). The Department is of the view that the Appellant having adopted reversal of credit of input services pertaining to the exempted services, was bound to reverse the credit of output services as per the formula prescribed under Rule 6(3A). On the other hand, it is the case of the Appellant that if the computation method adopted confirmed in the impugned order wherein to consider the entire input service credit is accepted, the same would lead to a situation where even when the cenvat credit exclusively attributable to the provision of taxable services would require to be reversed which is not the spirit of Rule 6(3) (ii) of CCR. Hence, it is the Appellant's case that the credit to be reversed is the credit attributable to the provision of exempted services alone and only the common credit taken should be considered for arriving at the amount to be reversed under provision to the exempted turnover under Rule 6 (3A) *ibid*.

8. In the above factual background, we find that in the case of **CCE & ST Rajkot Vs Reliance Industries Ltd.** – 2019 (28) G.S.T.L 96 (Tri.-Ahmd.) the Ahmedabad Bench of the Tribunal had an occasion to consider a more or less similar situation and the relevant observations of the Bench are as under :

“8. From the reading of Rule 6(1), it is clear that only in respect of input or input service used in exempted goods are not allowed. That means input or input service used in taxable service/dutiable goods, Cenvat credit is allowed. Sub-rule (2) of Rule 6 is only as an option that if any input or input services used in exempted goods, credit should not be allowed and only with this intention some mechanisms for expunging Cenvat credit attributed only to the exempted goods are provided. As per clause (b)(ii) & (iv), it is clearly provided that entire credit in respect of receipt and use of inputs/input service is allowed when such input and input service is used in dutiable final products and taxable service. However, nowhere in Rule 6 it is provided that the input or input service used in dutiable goods shall not be allowed. The Revenue is only interpreting the term “total Cenvat credit” provided under the formula. If the whole Rule 6(1), (2) and (3) is read harmoniously and conjointly, it is clear that “Total Cenvat Credit” for the purpose of formula under Rule 6(3A) is only total Cenvat credit of common input service and will not include the Cenvat credit on input/input service exclusively used for the manufacture of dutiable goods. If the interpretation of the

Revenue is accepted, then the Cenvat credit of part of input service even though used in the manufacture of dutiable goods, shall stand disallowed, which is not provided under any of the Rule of Cenvat Credit Rules, 2004.

9. ... ..

10. From the above it can be seen that when anomaly was noticed, the Government has substituted the sub-rule (3A). The legislators very consciously substituted the Rule with intention to give a clarificatory nature to the provision of sub-rule (3A) so as to make it applicable retrospectively. It was all along not the intention of the Government to deny Cenvat credit on the input/input service even though used in the dutiable goods. Keeping the said view in mind, the substitution in sub-rule (3A) of Rule 6 was made. Therefore, the substituted provision of sub-rule (3A) shall have retrospective effect being clarificatory.”

From the above order it is clear that for the purpose of calculation of credit reversal, in the formula, total Cenvat credit shall mean credit of only common input services and not of input services exclusively used for the manufacture of dutiable product on which the Cenvat credit is eligible in its entirety.

9. We also find that the above view of the Ahmedabad Bench stands affirmed by the Hon'ble High Court of Gujarat reported in **2020 (1) TMI 1640**.

10. Respectfully following the same, we hold that demand raised against the Appellant cannot sustain. Resultantly, the impugned order is set aside and the Appeal stands allowed with consequential benefits, if any, as per law.

(Order pronounced in open court on 17.12.2025)

sd/-

**(VASA SESHAGIRI RAO)**  
Member (Technical)

sd/-

**(P. DINESHA)**  
Member (Judicial)