

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

REGIONAL BENCH - COURT No.II

Service Tax Appeal No.70718 of 2021

(Arising out of Order-in-Original No.50/Pr.Commr./ST/Noida/2020-21 dated 30/03/2021 passed by Commissioner of Central Goods & Services Tax, Noida)

M/s HCL Technologies Ltd.,

.....Appellant

(A-10-11, Sector-3, Noida-201301)

VERSUS

Commissioner of Central Excise &

CGST, Noida

....Respondent

(C-56/42, Renu Tower, Sector-62, Noida-201307)

APPEARANCE:

Shri Atul Gupta, Advocate for the Appellant

Shri Santosh Kumar, Authorised Representative for the Respondent

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

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.70883/2025

DATE OF HEARING : 14 October, 2025
DATE OF PRONOUNCEMENT : 18 December, 2025

SANJIV SRIVASTAVA:

This appeal is directed against Order-in-Original No.50/Pr.Commr./ST/Noida/2020-21 dated 30/03/2021 passed by Commissioner of Central Goods & Services Tax, Noida. By the impugned order following has been held:-

"ORDER

- (i) *I confirm the demand of inadmissible credit amounting to Rs. 23,50,19,907- (Rs. Twenty Three Crores Fifty Lakhs Nineteen Thousand Nine Hundred Seven only) availed by the party during the period from April 2007 to September 2011 against M/s HCL Technologies Ltd., A-10-11, Sector-3, Noida and order the same to be recovered from them under proviso to Section 73(2) of the Finance Act. 1994.*
- (ii) *I order for recovery of interest on the confirmed demand at the para (i) above, at the appropriate rate as applicable from time to time from M/s HCL*

Technologies Ltd., A-10-11, Sector-3, Noida under Section 75 of the Finance Act, 1994;

(iii) I impose a penalty of Rs. 23,50,19,907- (Rs. Twenty Three Crores Fifty Lakhs Nineteen Thousand Nine Hundred Seven only) upon M/s HCL Technologies Ltd., A-10-11, Sector-3, Noida under Section 78 of the Finance Act, 1994 and order to recover the same from M/s HCL Technologies Ltd., A-10-11, Sector-3, Noida.

(iv) I drop the balance demand proposed in the impugned Show Cause Notice as discussed supra."

2.1 Appellant is a global IT services company engaged in the development of SOFTWARE & Exporting thereof through internet from its centers at Bangalore, Chennai, Gurgaon. Hyderabad etc to various customers situated outside India. They are registered with centralized registration No. AAACH1845PST001 for its 58 business premises across the county under the category of Information Technologies Software Service" and certain other taxable services i.e. Consulting Engineer Manpower Recruitment Agency, Management Consultants Architect Services, Business Exhibition Services, Business Auxiliary Services, Technical Inspection & Certification Commercial Coaching and training Advertising services, Information technology and software services Sponsorship Services etc.

2.2 As the appellant is mainly exporting ITS/ITE Service as per Export of Service Rules, 2005 they were not in position to utilize Cenvat credit from its input services. They had applied their first refund claim on 14.05.2009 under Rule 5 of Cenvat Credit Rules, 2004 read with Notification No.5/2006-CE (NT) dated 14th March, 2006 for the period from 16.05.2008 to 30.06.2008 along with documents as required for claiming refund claim. For subsequent periods they filed the refund claims at regular interval.

2.3 On scrutiny of the documents submitted along with the refund claims filed, it was observed that appellant had irregularly availed Cenvat credit

- of service tax paid on inadmissible services i.e. Insurance Auxiliary Services, Advertising Services & Sponsorship Services etc. which do not fall under the definition of input services.
- incomplete invoices which were not admissible to them as per the provisions of Cenvat Credit Rules.

Details of such credit taken by the appellant are detailed below:-

S. No	Period of Refund	Inadmissible CENVAT Credit against		
		Insurance Auxiliary Services	Out Door Catering services	Incomplete invoices and other services
1	April 07 To June 07	0	1,68,334	0
2	July 07 to Sep 07	0	1,66,738	0
3	Oct 07 to Dec 07	0	2,20,631	0
4	Jan 08 To March	0	2,02,518	0
5	April 08 to June 08	3,86,70,264	65,362	3,49,749
6	July 08 To Sep 08	24,06,146	2,49,879	51,16,877
7	Oct 08 to Dec 08	10,48,301	2,91,896	19,25,103
8	January to March 09	4,23,105	1,44,254	9,15,967
9	Apr 09 to June 09	30,00,786	2,30,226	0
10	July 09 to Sep09	6,78,934	1,55,114	0
11	Oct 09 to Dec 09	4,39,70,599	1,63,722	4,52,38,655
12	Jan 10 to March 10	15,14,404	1,67,280	41,64,879
13	April 10 to June 10	19,86,944	1,66,910	65,39,767
14	July 10 to Sep 10	4,70,60,772	1,27,561	13,40,872
15	Oct 10 to Dec 10	1,76,29,650	2,80,335	33,04,040
16	Jan 11 to March 11	10,26,731	2,74,712	50,40,469
17	April 11 to June 11	14,49,333	72,898	69,33,103
18	July 11 to Sep 11	0	786	1,30,37,723
	TOTAL	16,08,65,969	31,49,154	9,39,07,204
	Total Inadmissible Credit		25,79,22,317	

2.5 Further it was observed that due to mis-statement/mis-interpretation of the facts and information submitted/data at the time of verification in respect of inadmissible input services i.e. Advertising Service, Sponsorship service and Insurance Auxiliary Services/General Insurance Service, the total inadmissible refund of Cenvat credit of service tax paid has been erroneously refunded to the appellant. Details of such erroneous refund claim paid to the appellant are as follows:-

Period	Input Service			Total Erroneous refund
	Insurance Auxiliary	Advertising	Sponsorship	

May-Jun 08	36224447	0	0	36224447
Jul-Sep 08	0	2724017	150012	2874029
Oct-Dec 08	0	1215320	1980	1217300
Jan-Mar 09	0	2138937	127692	2266629
Apr-Jun 10	0	3720625	122302	3842927
Jul-Sep 10	0	3084111	315044	3399155
Oct-Dec 10	0	2288437	470653	2759090
Total	36224447	15171447	1187683	52583577

2.6 Show cause notice dated 19.10.2012 was issued to the appellant asking them to show cause as to why:-

"(i) The inadmissible credit amounting to Rs. 31,05,05,904/- ((25,79,22,327/-+5,25,83,577/-) (Rs. Thirty One Crores Five Lakhs Five Thousands Nine Hundred Four)) availed by the party during the period from April 2007 to September 2011 should not be recovered under the provisions of Rules 14 of the CENVAT Credit Rules, 2004 read with Section 73 of the Finance Act 1994 as amended.

(ii) Interest on wrongly availed CENVAT Credit of should not be demanded and recovered from them in terms of Rules 14 of the CENVAT Credit Rules, 2004 read with Section 75 of the Finance Act, 1994.

(iii) Penalty should not be imposed upon them under Rule 15 of the CENVAT Credit Rules, 2004 read with Section 78 of the Finance Act, 1994."

2.7 The said show cause notice was adjudicated as per the impugned Order-in-Original referred in para 1 above.

2.8 Aggrieved appellant have filed this appeal.

3.1 We have heard Shri Atul Gupta learned Counsel appearing for the appellant and Shri Santosh Kumar learned Authorized Representative appearing for the revenue.

3.2 Arguing for the appellant learned Counsel submits that-

- Extended period of limitation would not have been invoked for the period April, 2007 to September, 2011. The show cause notice has been issued invoking the extended period of limitation on 24.04.2012. Nothing has been suppressed,

statements etc. permitting invocation of extended period of limitation or as provided by the proviso to Section 73(1) are present in this case. Reliance is placed on the following decisions:-

- Nizam Sugar Factory [2006 (197) ELT 465 (SC)]
 - Reliance Industries Ltd. [2023 (385) E.L.T. 481 (S.C.)]
 - Sunshine Steel Industries [2023 (385) 826 (SC)]
- Input services in respect of which credit is sought to be denied have been allowed to them by various Benches of the Tribunal. Hence, there cannot be any question of any denial of the same.

3.3 Authorized Representative reiterates the findings recorded in the impugned orders.

4.1 We have considered the impugned orders along with the submissions made in appeal and during the course of argument.

4.2 In the present case appellant was taking credit of various input services received by them. They were also filing ST-3 returns for claiming the credit, the jounces of the present proceedings as per the facts recorded in the impugned order is on the basis of the refund claims filed by the appellant under Rule 5 of the Cenvat Credit Rules, 2004 read with Notification No.5/2006-CE(NT). During the course of verification of these refund claims starts from 14.05.2009, the first refund claim as per the impugned order filed on 14.05.2009 for the period from 16.05.2008 to 30.06.2008 along with documents as required for claiming refund claim. Thereafter, regular refund claims were filed and all the documents provided. When all the facts were being made known to the department in the form of the credit declared in ST-3 return and also in the form of the refund claims filed, there cannot be a valid ground for invocation of extended period of limitation. For invoking extended period impugned order record's as follows:-

"Invoking of extended period-

5.51. Besides it, the party has also contested the invocation of the extended period of limitation and

imposition of penalty under Section 78 of the Finance Act, 1994 on the ground that there was no suppression on their part as the CENVAT credit pertains to the refund claims, so the question of any suppression or concealment by the Party does not arise and they have also refuted liability to interest as proposed under Section 75 and penalty under section 78 of the Finance Act. The contentions made by the party are not acceptable as the party never informed the department regarding inadmissible CENVAT credit and this fact came to the notice of the department only when the CENVAT invoices of the party were examined. Therefore, the party has suppressed this vital fact with intent to evade payment of the service tax and hence, the provisions of proviso to section 73(1) are applicable in the instant case for invoking extended period of limitation. Since the party has contravened the provisions of Rule 14 of the CENVAT Credit Rules as they failed to avail correct CENVAT credit with the intent to evade payment of such tax and therefore they rendered themselves liable for penal action under Section 78 of the Finance Act, 1994.

The case laws cited by the party do not hold good, as the decisions have been passed in different perspective with different facts and circumstances and are not squarely applicable in this case. The fact and circumstances of the instant case is different in entirety and applicability, as it has been abundantly substantiated beyond doubt that the party has acted in a way to evade the payment of due service tax by availing inadmissible CENVAT credit. The reasoning and explanations put forth by the party are an afterthought, to cover up the action, which had taken part in the past with the intent to evade service tax.

In view of the aforesaid discussion, I find that the party failed to correctly declare the admissible CENVAT credit with the intent to evade payment of service tax. Accordingly charge of suppression is convincingly demanded under the present show cause notice by the due

date on which they are supposed to discharge the said, service tax. I also find that the said service provider has suppressed the material facts from the department against them and I am unable to accept their claim of disclosing all the material and relevant facts to the department. Thus, their contention that they had disclosed the information to department does not hold water. I find that the SCN has been issued on 19.10.2012 covering the period 01.04.2007 to 30.09.2011 by invoking proviso to Section 73(1) of the Finance Act, 1994 and it was issued well within the time limit.

Reliance is placed on judgment of Hon'ble CESTAT in the case of Rajasthan State Beverage Corporation Limited 2013(TIOL) 1110-CESTAT(Delhi) wherein it was held that:-

"Despite the clear obligation enjoined by the unambiguous provisions of the Act the appellant neither obtained registration as a taxable service provider nor filed periodical returns nor remitted Service Tax as mandated by the provisions of the Act. The tax evasion by the appellant came to notice of revenue only when intelligence officers of the Anti Evasion Wing came upon information of the activities of the appellant.

.....
The requisite information was provided by the appellant to Revenue in bits and pieces.

In these totality of circumstances, the conclusion by revenue that there was willful suppression of relevant material with a view to evade liability to tax cannot be faulted nor considered inconsistent with the statutory prescription that justify invocation of the extended period of limitation."

The ratio of this judgment is squarely applicable to this case. Therefore, I hold that the show cause notice is correctly issued to them by invoking, extended period under the proviso of Section 73(1) of the Finance Act,

1994 and that the CENVAT credit demanded in the notice is recoverable from them under proviso to Section-73 of the Finance Act, 1994. Hence, provisions related to extended period are rightly applicable in the instant case and demand is not barred by limitation. Accordingly, the CENVAT credit is liable to be recovered from them under proviso to Section 73(1) of the Act ibid."

4.3 We do not find any merits in the findings recorded for the simple reason that appellant had been declaring about the Cenvat credit taken erroneously to the department. They were regularly filing the returns as prescribed by the due date, declaring the credit taken. It is also evident from the format of the return date appellant was only required to declare the total credit taken during the period of return under various heads, without detailing credit taken against specific service or the invoices. Even otherwise when these invoices, all the documents were submitted alongwith the refund claim under Rule 5, authorities should have worked out and made the demand rather than waiting for another three years. Hon'ble Supreme Court in the Case of Reliance Industries Ltd. [2006 (197) ELT 465 (SC) have held as follows:-

"23. We are in full agreement with the finding of the Tribunal that during the period in dispute it was holding a bona fide belief that it was correctly discharging its duty liability. The mere fact that the belief was ultimately found to be wrong by the judgment of this Court does not render such belief of the assessee a mala fide belief particularly when such a belief was emanating from the view taken by a Division Bench of Tribunal. We note that the issue of valuation involved in this particular matter is indeed one where two plausible views could co-exist. In such cases of disputes of interpretation of legal provisions, it would be totally unjustified to invoke the extended period of limitation by considering the assessee's view to be lacking bona fides. In any scheme of self-assessment it becomes

the responsibility of the assessee to determine his liability of duty correctly. This determination is required to be made on the basis of his own judgment and in a bona fide manner.

24. The extent of disclosure that an assessee makes is also linked to his belief as to the requirements of law. In the present case the assessee who was required to self-assess his liability determined the assessable value on the basis of an interpretation given by CESTAT in its order dated 28-7-2000. It could not have foreseen that the view taken by CESTAT would be upset and overturned by the Supreme Court as it happened on 9-8-2005. The assessee's conduct during the material period i.e. between 2000 to 2005 cannot be considered to be mala fide when it merely followed the view taken by the Tribunal in IFGL's case (supra). On the question of disclosure of facts, as we have already noticed above the assessee had disclosed to the department its pricing policy by giving separate letters. It is also not disputed that the returns which were required to be filed were indeed filed. In these returns, as we noticed earlier there was no separate column for disclosing details of the deemed export clearances. Separate disclosures were required to be made only for exports under bond and not for deemed exports, which are a class of domestic clearances, entitled to certain benefits available otherwise on exports. There was therefore nothing wrong with the assessee's action of including the value of deemed exports within the value of domestic clearances.

25. We also take note of the fact that in the show cause notice itself it has been accepted by the revenue that the self-assessment procedure did not require an assessee to submit copies of all contracts, agreements and invoices. This being the admitted position in the notice we do not find any basis for agreeing with the findings of the

Commissioner that certain relevant documents had not been filed and thereby suppressed from the scrutiny of the revenue officers. An assessee can be accused for suppressing only such facts which it was otherwise required to be disclosed under the law. The Counsel for the Revenue has, while pleading that facts was suppressed been unable to show us the provision or rule which required the assessee in this case to make additional disclosures of documents or facts. The assertion that there was suppression of facts is therefore clearly not tenable.

4.4 In view of the above decision, the demand beyond the normal period of limitation cannot be upheld. We also take note of the fact that the show cause notice in the present case was issued on 19.10.2012. As we have set aside the demand made by invoking extended period of limitation, the demand made for the period after April 2011 will be within the period of limitation. The prescribed date for filing the ST-3 return for the period April 2011 to September 2011 is 25.10.2011. Appellant has submitted that amendment made by Finance Act, 2012 with effect from 28.05.2012 extending the normal period of limitation will not have retrospective effect as have been held in the following cases

- S S Gadgil [1964 (53) ITR 231]
- Commercial Motors Ltd. [(2015) 15 SCC 168]

We observe that this issue on the law of limitation is well settled. The amended period of limitation shall be applicable only if on the date of amendment there was some period of limitation available for initiating the proceeding against the person. In the present case the return for the period October 2010 to March 2011 was to be filed by 25.04.2011, and the demand for this period got barred by limitation if issued after 24.04.2012. The amendment made with effect from 28.05.2012 could not revive this time barred demand.

4.5 Impugned order records in para 5.49 in respect of admissible and inadmissible Cenvat credit. The said para is reproduced below:-

"5.49 Thus, the amount of admissible credit as per above discussion and findings can be summarized as under-

<i>S. No.</i>	<i>Input service/Discrepancy</i>	<i>Allowed CENVAT in Rs.</i>
1	<i>Cleaning Activity</i>	<i>3,807,085</i>
2	<i>Address mentioned in the invoice is not mentioned in the Centralized Registration Certificate</i>	<i>3,583,098</i>
3	<i>Legal Consultancy Service</i>	<i>3,162,979</i>
4	<i>Chartered Accountants Service</i>	<i>2,609,095</i>
5	<i>Minor Discrepancies in invoices</i>	<i>2,132,255</i>
6	<i>Conference & Meetings & Other minor discrepancies</i>	<i>2,019,682</i>
7	<i>Assistance in processing of Refund Claim and filing return</i>	<i>945,223</i>
8	<i>Car Parking & Rent of Cafeteria</i>	<i>599,086</i>
9	<i>Technical Inspection Certification/ Technical Testing Analysis</i>	<i>405,337</i>
10	<i>Issuance Of Certificate</i>	<i>274,728</i>
11	<i>Pest Control Services</i>	<i>250,916</i>
12	<i>Bills not containing PAN Based ST Registration or ST Registration</i>	<i>206,146</i>
13	<i>Professional Charges for GAAP advisory</i>	<i>55,517</i>
14	<i>Management Consultant (speaker services)</i>	<i>92,474</i>
15	<i>Air Travel Agent Service</i>	<i>24,10,006</i>
16	<i>Manpower Recruitment Service (Visa Cost)</i>	<i>104,209</i>
17	<i>Banking & Financial Services</i>	<i>100,594</i>
18	<i>Mandap Keeper Service</i>	<i>37,354</i>
19	<i>Commission for Brand Positioning Study</i>	<i>31,364</i>
20	<i>Forward Cover Certificate</i>	<i>20,600</i>
21	<i>Club & Association Service</i>	<i>10,815</i>

22	Landscaping Service	14,578
23	Stock Exchange Service	13,648
24	Packaging & Convention Service	5,843
25	Repair & Maintenance Service	4,097
26	Water Sample Analysis	3,961
27	Garden Maintenance Service	1,370
28	Service of Water Treatment Plant	360
29	Advertisement Service (Credit erroneously refunded)	15,171,447
30	Insurance Auxiliary Service (Credit erroneously refunded)	36,224,447
31	Sponsorship Service(Credit erroneously refunded)	1,187,683
	Total	7,54,85,997

The amount of inadmissible credit as per above discussion and findings can be summarized as under-

S.No.	Input Service/Discrepancy	Disallowed CENVAT in Rs.
1	Insurance Auxiliary Service	124,641,522
2	Advertisement Service	10,509,487
3	Sponsorship Service	1,239,299
4	Outdoor Catering Service	3,149,154
5	No proper description in invoice	2,470,872
6	Credit Transferred in the course of merger with HCL Technopark	1,753,545
7	Even Management Service	1,701,596
8	Video & Sound Recording Service	1,042,403
9	Excess credit taken	296,715
10	Rent-a-cab Service	286,472
11	Invoices do not bear the amount of Service Tax Charged	266,538
12	Invoices not bearing Invoice Number	177,277
13	GYM Equipment AMC Charges	30,860
14	Health Club & Fitness Service	24,617
15	Club & Association Service (Party has withdrawn the refund)	5,150
16	Packaging & Convention Service	1,723
17	Accommodation Charges	6,386
18	Duplicate Invoice	5,100
19	Refund Claim withdrawn	4,280

20	Amount claimed to be added twice	8,74,36,611
	Total	23,50,19,907

Thus, the amount of admissible & inadmissible CENVAT credit is summarized as under-

Total Demand	31,05,05,904
Cenvat credit disallowed	23,50,19,907
Cenvat credit allowed	7,54,85,997

In view of above discussions and findings, I confirm the demand of Rs.23,50,19,907/- and drop the balance demand of Rs.7,54,85,997/- in the instant case.”

4.6 We find that in respect of the services on which credit is sought to be denied and which are within the normal period of limitation, appellant has submitted that the issue has been decided by the Tribunal in various decisions. The details submission made by the appellant service wise is reproduced below:-

Sr. No.	Input Service	Purpose	Decisions
1.	Insurance Auxiliary Service [Rs. 14,49,333 - April 2011 to September 2011]	Availing credit of service tax paid on Group Medclaim Insurance Policies for its employees, which covers hospitalization expenses. Even Post 2011, the credit was available as cost of insurance was borne by the Appellant.	<ul style="list-style-type: none"> ➤ Commissioner of Customs, CE and ST, Noida vs. M/s HCL Technologies Ltd. ST/56714/2013 - Cestat Allahabad. ➤ M/s. HCL Technologies Ltd. vs. Commissioner of Central Excise and Vice- versa 2016 (42) STR 48 ➤ Commissioner of Central Excise vs. HCL Technologies 2015 (37) S.T.R. 716 (All.) ➤ HCL Technologies Ltd. Vs. CCE and Vice Versa 2014 (1) TMI 1730-CESTAT New Delhi. ➤ Ganesan Builders v. Comm. of ST 2018 (10)TMI 269 -Madras HC
2.	Advertising Service and Sponsorship Services [Rs. 62,10,918 - April 2011 to September 2011]	Used by the respondent for promoting the name and it is nothing but Advertisement services. Promotion related to output service is integrally connected with the	<ul style="list-style-type: none"> ➤ HCL Technologies Ltd. V. CCE, Noida 2015 (40) S.T.R. 369 (Tri- Del.) ➤ Commissioner of CE, Noida vs. HCL Tech. Ltd. 2016 (42) STR 48 (Tri-Del.) ➤ HCL Technologies Ltd. Vs.CC and CE and ST

		business activity of the company.	<p>Noida and vice-versa 2015 (8) TMI 1429CESTAT Delhi</p> <ul style="list-style-type: none"> ➤ Coca Cola India Pvt. Ltd. v. CCE, Pune-II, 2009 (242) E.L.T. 168 (Bom.) ➤ CCE, Hyderabad v. Deloitte Tax Services India Ltd., 2008 (11) S.T.R. 266 (Tri-Bang.) affirmed by Andhra Pradesh High Court in CC, Hyderabad v. Deloitte Tax Service India P. Ltd. 2014 (33) S.T.R. 129 (A.P.)
3.	Outdoor Catering Services [Rs. 73,684 - April 2011 to September 2011]	Services mainly for the employees especially in cases when they have stayed back late for work or when the client visit the premises of the Appellant. The entire cost is borne by the Appellant only.	<ul style="list-style-type: none"> ➤ M/s. HCL Technologies Ltd. Versus Commissioner of Central Excise And Vice-Versa 2014 (1) TMI 1730 - CESTAT New Delhi ➤ CCE, Ahmd vs. Ferromatic Milacron India Ltd. [2011 (21)STR 8 (Guj)] ➤ CCE Bangalore vs. Bell Ceramics Ltd.- [2012 (25) STR 428 (Kar)] ➤ CCE Bangalore vs. Millipore India P Ltd. - [2012 (26) STR 514 (Kar)]
4.	Rent-a-Cab [Rs. 2,86,472 - April 2011 to September 2011]	Service to pick and drop employees from home to office and vice versa on daily basis.	<ul style="list-style-type: none"> ➤ HCL Technologies Ltd. V. CCE, Noida 2015 (40) S.T.R. 369 (Tri- Del.) ➤ HCL Technologies Ltd. V. CCE, Noida 2015 (40) S.T.R. 1124 (Tri- Del.) ➤ CCE, Hyderabad v. Deloitte Tax Services India Ltd., 2008 (11) S.T.R. 266 (Tri-Bang.) affirmed by Andhra Pradesh High Court in CC, Hyderabad v. Deloitte Tax Service India P. Ltd. 2014 (33) S.T.R. 129 (A.P.)
5.	Video and Sound Recording Services [8,990 - April 2011 to September 2011]	During various events, business meetings, seminars, promotional activities etc. these services were mainly used for sales promotion and advertisement.	<ul style="list-style-type: none"> ➤ HCL Technologies Ltd. v. CCE, Noida, 2015 (40) S.T.R. 369 (Tri. - Del.) ➤ Commr. of C.EX. & S.T, Noida v. Samsung India Electronics Pvt. Ltd., 2017 (52) S.T.R. 497 (Tri-Allahabad)
6.	Event Management Services [1,61,518 - April	Such events were held to promote its sales and in relation	<ul style="list-style-type: none"> ➤ M/S Monneygram India P. Ltd. v. Assistant commissioner, 2020(3)

	2011 to September 2011]	to staff development, and overall betterment of the business.	TMI 744 (Tri Mumbai) ➤ M/S Warburg Pincus India Pvt.ltd v. Commissioner of CGST, Mumbai, 2022 (11) TMI 695 (Tri Mumbai)
7.	No proper service description in the Invoice [Rs. 38,441- July 2011 to September 2011]	Appellant has availed the services from M/s Cigma Events Pvt. Ltd. for conducting HCL Direction events at different places	
8.	Accommodation Services [Rs. 6,386 - July 2011 to September 2011]	For the employees who travel different places within India and outside India for onsite support and software implementation.	➤ M/s. Bangalore International Airport Ltd Versus The Commissioner of Central Excise & Service Tax, Bangalore 2024 (12) TMI 1299 - CESTAT BANGALORE ➤ DBOI Global Services Pvt. Ltd. vs. CGST, Mumbai East ST/88566/2018- Cestat Mumbai
9.	Health Club and Fitness services	Entire demand in this regard is Time Barred	
10.	Incomplete Invoices which do not bear any invoice no. & address of the premises	Entire demand in this regard is Time Barred	
11.	Credit transferred in the course of merger with HCL Technopark	Entire demand in this regard is Time Barred	
12	Gym Equipment AMC July 2011 to September 2011]	For maintain the fitness of the employees who provide ITSS services to the clients. This service ensures well being of the employees and boosts the overall efficiency of the business.	8662
13	Excess Credit Taken	Amount Withdrawn by the Appellant	296715
14	Duplicate Invoices	Amount Withdrawn by the Appellant	5100
15	Invoices do not bear amount of Service tax charged	Amount Withdrawn by the Appellant	2,66,538
16	Club & Association Service, Packaging & convention services and refund withdrawn amount	Amount Withdrawn by the Appellant	11,153

4.7 From perusal of the above and the decisions referred we are in agreement that CENVAT Credit has been allowed in respect of the following services in the appellants own cases:

- Insurance Auxiliary Service.
- Advertising Services
- Rent-a-cab Services
- Video and Sound Recording Services.
- Event Management Service.

4.8 Though CENVAT Credit has been allowed in respect of Outdoor Catering Services in the appellant own case, the decision referred do not help the case of the appellant for the reason that by Notification No dated Outdoor Catering Service have been put in the specific exclusion in the Rule 2 (I) of the Cenvat Credit Rules, 2004, defining the input services. In view of the amendment made the decisions relied upon by the appellant in respect of admissibility of CENVAT Credit on the Outdoor Catering Services are in the respect of the amendment provisions. It is the submission of the appellant that these services were meant for the personal consumption of the employees. For period subsequent to amendment Hon'ble Karnataka High Court has in case Toyota Kirloskar Motor Pvt. Ltd. [2021 (55) G.S.T.L. 129 (S.C.)] held as follows:

"14. In the present case the undisputed facts reveal that the orders passed by the authorities, appellate authority and the Tribunal are based upon the amendment which came into force from 1-4-2011. For deciding the controversy in the present case, the definition of 'input service' prior to amendment and post-amendment are necessary and they are reproduced as under :

Post 1-4-2011 the definition of 'input service' stood thus :

Rule 2(I) "input service" means any service, -

(i) used by a provider of output service for providing an output service; or

(ii) used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products, up to the

place of removal, and includes services used in relation to modernisation, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage up to the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation up to the place of removal; but excludes, -

(A) services portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act (hereinafter referred as specified :

- services insofar as they are used for -

- (a) construction or execution of works contract of a building or a civil structure or a part thereof; or*
- (b) laying of foundation or making of structures for support of capital goods, except for the provision of one or more of the specified services;*

Or

(B) Services 'provided by way of renting of a motor vehicle, insofar as they relate to a motor vehicle which is not a capital goods; or

(BA) Service of general insurance business, servicing, repair and maintenance insofar as they relate to a motor vehicle which is not a capital goods, except when used by-

- (a) a manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person; or*
- (b) an insurance company in respect of a motor vehicle insured or reinsured by such person; or*

(C) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee;"

Prior to 1-4-2011, the definition of 'input service' stood thus :

Rule 2(l) "input service" means any service, -

(i) used by a provider of taxable service for providing an output service; or

(ii) used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products from the place of removal, and includes services used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage up to the place of removal, procurement of inputs, activities relating to business, such as accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, and security, inward transportation of inputs or capital goods and outward transportation up to the place of removal"

15. The undisputed facts make it very clear that the period involved in the present appeal is admittedly of post-2011 period and after the amendment to the provisions of Rule 2(l) defining the 'input service' and the amendment to the provision of Rule 2(l) defining the 'input service' came into effect w.e.f., 1-4-2011. The definition of 'input service' post-amendment

contains exclusion clause and exclusion clause was effected w.e.f. 1-4-2011. Clause (c) of the said exclusion clause specifically excludes the services provided in relation to 'outdoor catering' services. It is certainly not in dispute that said services prior to 1-4-2011 have been held to be covered by the definition of 'input service', however, after the amendment came into force in the light of specific exclusion clause, 'outdoor catering' service is not at all covered under the definition of 'input service'.

Affirming the above Hon'ble Supreme Court has as reported at [2021 (55) G.S.T.L. 129 (S.C.)] observed as follows:

"2.The statutory provision - Rule 2(1) defining "Input Service" post 1-4-2011 is very clear and the out-door catering services when such services are used primarily for personal use or consumption of any employee is held to be excluded from the definition of "Input Service"."

Thus we do not find any merits in the contentions raised by the appellant for allowing the credit in respect of outdoor catering services. CENVAT Credit on this services amounting to Rs. 73,864/- availed during the period April 2011 to September 2011 is disallowed.

4.9 In respect of the credit taken against invoices (Credit of Rs 38,441) on which no proper description of the service is mentioned on the invoice, we do not find any merits in the contentions raised by the appellant. Rule 9 (2) of the CENVAT Credit Rules, 2004 specifically provides as follows:

"(2) No CENVAT credit under sub-rule(1) shall be taken unless all the particulars as prescribed under the Central Excise Rules, 2002 or the Service Tax Rules, 1994, as the case may be, are contained in the said document:

Provided that if the said document does not contain all the particulars but contains the details of duty or service tax payable, description of the goods or

taxable service, assessable value, name and address of the factory or warehouse or premises of first or second stage dealers or provider of taxable service, and the Deputy Commissioner of

Central Excise or the Assistant Commissioner of Central Excise, as the case may be, is satisfied that the goods or services covered by the said document have been received and accounted for in the books of the account of the receiver, he may allow the CENVAT credit”;

From the perusal of this rule it is evident that description of service on the document against which the CENVAT Credit is claimed is a mandatory requirement and could not have been waived for allowing the credit. Hence we disallow the credit taken against such invoices amounting to Rs 38,411/-.

4.10 In respect of the accommodation charges appellant has claimed that CENVAT Credit in respect of these services has been allowed as per the following decisions:

- Bangalore International Airport Ltd. [2024 (12) TMI 1299 CESTAT Bangalore.
- DBOI Global Services Pvt Ltd. [Order dated in ST/88566/2018]

4.11 We have perused the decision of Bangalore Bench in the case Bangalore International Airport Limitation, in the said decision assessee has himself given up his claim in respect of the accommodation service, and the credit was reversed. The relevant paragraph from the said decision is reproduced below:

12. As regards denial of CENVAT credit on Guest House caretaker salary, Adjudicating authority denied the same on the ground that the said services do not have any nexus with the output service provided by the assessee. The same is used for the personal benefit /consumption of the employees and hence do not qualify as input service in terms of the Rule 2(l) of Cenvat Credit Rules, 2004 and hence the credit availed by the assessee is irregular. In

this regard, Learned Counsel further submitted that in Appeal No. ST/21313/2017, an amount of Rs. 77,851 has already been reversed by the Appellant and hence, the same may be appropriated towards reversal required for Guest House and breakfast expenses for Carnatic Music Festival.

4.12 The issue under consideration in case of DBOI Global Services Pvt Ltd. [Final Order No 85491/2023 dated 12.01.2023 in ST/88566/2018] was not in respect of admissibility of CENVAT Credit on any of the service listed. The issue was in respect of Refund Claim in terms of Rule 5 of CENVAT Credit Rules, 2004. The bench by relying on the various past precedent has held that credit cannot be denied without initiating a proceeding under Rule 14 of the CENVAT Credit, 2004. The said decision is clearly distinguishable.

4.13 It is the submission of the appellant that these service have been availed for employees when they travel to outside locations within India or outside. As these services are meant for personal consumption of the employees we do not find any merits in the submissions made by the appellant, in view of the decision of Hon'ble Karnataka High Court in case of Toyota Kirloskar Motor Pvt. Ltd. referred earlier and affirmed by the Hon'ble Supreme Court.

4.14 In respect of the CENVAT Credit of Rs 8662/- availed by the appellant against the Gym Equipment AMC Services we do not find any merits in the submissions made by the appellant for the reason that these services are also in respect of gymnasium equipments meant for person use of the employees and hence fall under the excluded category.

4.15 Appellant has not disputed the denial of CENVAT Credit denied in respect of following and have withdrawn their claim.

- Excess Credit Taken Rs. 2,96,715/-
- Credit taken Twice (Duplicate Invoices) Rs 5,100/-
- Credit taken against invoices not indicating Service Tax. Rs 2,66,538/-
- Club association, Packing & Convention Rs 6,873/-

➤ Refund amount withdrawn Rs 4,280/-

4.16 Thus we uphold that for the period April 2011 to September 2011 credit as detailed in table below has been rightly denied to the appellant

S No	Service	Credit Denied	Reference
1	Outdoor Catering	73,684	Para 4.8
2	Invoice without service description	38,441	Para 4.9
3	Accommodation	6,386	Para 4.13
4	Gym Equipment AMC	8,662	Para 4.14
Credit not disputed by appellant			Para 4.15
5	Excess Credit Taken	2,96,715	Para 4.15
6	Credit taken Twice	5,100	Para 4.15
7	Invoices not indicating Service Tax	2,66,538	Para 4.15
8	Club association, Packing & Convention	6,873	Para 4.15
9	Refund amount withdrawn	4,280	Para 4.15
	Total	7,06,679	

4.17 Apart from the above, we find that appellant have given compilation in respect of all the amounts except amount mentioned in the above table at Sl. No.20 of the impugned order, we also note that impugned order in para 5.48 records the findings in respect of the said amount is as follows:-

"5.48. The party has further contended that CENVAT Credit amounting to Rs.8,93,57,819/-has been added twice in the computation of the total amount of CENVAT Credit proposed for recovery vide the present SCN Le. Rs. 31,05,05,904/- They have also submitted a chart showing the error in calculation. They have further submitted that the present SCN contains two charts particularly Chart-A and Chart-B on Page Number 42 and 43 respectively. The total of Chart A and B amount to Rs.31,05,05,904/- (25,79,22,327/- + 5,25,83,577/-). However, in arriving at this total, certain amounts have been added twice. They have submitted that one amount cannot be recovered twice. That, SCN, if any, should be for recovery of CENVAT Credit amounting to Rs. 22,11,48,085/- and not for Rs.31,05,05,904/-. Thus, the SCN to the extent it is

proposing to disallow CENVAT credit of Rs. 8,93,57,819/-is liable to be dropped.

I have gone through the submissions of the party. I do not find the submissions of the party convincing. Therefore, I do not find the contention of the party tenable.”

4.18 As we find that the impugned order rejects the submission made by the appellant with regards to the demand being made twice in respect of the same credit in a very simple manner without going into the details. At the time of argument, appellant have not produced any argument in support of the same. This being a question of fact whether the demand has been made twice in respect of the same credit which needs to be verified before the Original Authority. For this very limited purpose of verification of the above said amount at Sl. No.20, the matter is remanded back to the Original Authority.

4.19 As we hold that extended period of limitation could not have been invoked for making this demand, the penalty imposed under Section 78 is set aside in view of the decision of the Hon'ble Supreme Court in the case of Rajasthan Spinning and Weaving Mills Ltd. [2009 (238) ELT 3 (SC)].

5.1 Appeal is partially allowed and for the very verification of the amount at Sl. No.20 of the table and as discussed in para 4.19, matter is remanded back to the Original Authority.

5.2 Original Authority is directed to record proper finding on this aspect within a period of three months from the receipt of this order.

(Order pronounced in open court on-18/12/2025)

**(P. DINESHA)
MEMBER (JUDICIAL)**

**(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)**