Cargotec India Pvt. Ltd. vs. Commissioner of GST & Central Excise

Whether refund of unutilized CENVAT Credit under Rule 5 of the CENVAT Credit Rules, 2004 on export of IT Software Services can be denied on the grounds of (i) services rendered from unregistered premises, and (ii) absence of nexus between input services a

Date of Order: May 19, 2025
Case Law No: GIB-CESTAT-2025-53
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

BACKGROUND

The appellant, a 100% Export Oriented Unit operating under the Software Technology Parks Scheme, was registered for providing Information Technology Software Services under the Finance Act, 1994. The appellant filed refund claims of unutilized CENVAT Credit under Rule 5 of the CENVAT Credit Rules, 2004 in respect of export of services for two quarters — April to June 2011 and July to September 2011. During April 2011, the appellant had shifted its premises from Adyar to Taramani, and the service tax registration for the new premises was amended only on 05.01.2012. The Original Authority sanctioned only a small portion of the refund and rejected the balance on two grounds — first, that the services were rendered from unregistered premises, and second, that there was no nexus established between the input services and the output service. The Commissioner (Appeals) upheld the rejection. The appellant then approached CESTAT Chennai.

CRUCIAL COURT OBSERVATIONS (Verbatim)

On Unregistered Premises:

"*There is no mention in the said Rules that service tax can be availed only in a registered unit. Moreover, in the circumstances cited by the appellant he could have been facilitated by examining the actual input/output details of CENVAT Credit from the records maintained by the appellant. There is no allegation that the appellant was asked for data which he refused to provide. Hence this finding in the impugned order must be set aside with consequential relief.*"

On Nexus Between Input and Output Services:

"I find that the OIO's are very cryptic and do not discuss as to why the input services cannot be corelated to the output. As stated by Hon'ble Justice Krishna Iyer in Organo Chemical Industries & Anr vs UOI [1979 AIR 1803 / 1980 SCR (1) 61], 'The inscrutable face of a sphinx is ordinarily incongruous with a judicial or quasi-judicial performance.' Hence the order merits being set aside on this ground alone."

"The Commissioner (Appeals) has tried to improve upon the order of the Original Authority by discussing the law without examining the facts of use/non-use of each input service with the output. Further, I find that the judgment and Circular cited by the appellant also cover the issue in their favour."

FINAL VERDICT

CESTAT set aside the impugned orders and allowed both appeals, holding that registration of premises is not a mandatory pre-condition under Rule 5 of the CENVAT Credit Rules for claiming refund, and that a cryptic order rejecting nexus without examining facts is legally unsustainable. Consequential relief directed as per law.

ADDITIONAL FOOTNOTES

CASES REFERRED

Case	Citation	Relevance
Commissioner of Service Tax-III, Chennai vs. CESTAT Chennai & M/s. Scioinspire Consulting Services (India) Pvt. Ltd.	2017 (4) TMI 943 — Madras High Court	Rule 5 of CENVAT Credit Rules does not stipulate registration of premises as a pre-requisite for claiming refund — decided against Revenue
mPortal India Wireless Solution (P) Ltd. vs. Commissioner of Service Tax	[2011] 16 taxmann.com 353 (Karnataka HC)	Similar view — registration of premises not mandatory for CENVAT refund
M/s. Infosys Limited vs. Commissioner of Service Tax, Bangalore	2024 (6) TMI 845 — CESTAT Bangalore	Board Circular dated 19.01.2010 directs liberal approach — Chartered Accountant's certification of nexus between inputs and output services to be accepted
Organo Chemical Industries & Anr. vs. Union of India	1979 AIR 1803 / 1980 SCR (1) 61 — Supreme Court	Cryptic and inscrutable orders by quasi-judicial authorities are legally impermissible
CBIC Circular No. 120/01/2010-ST dated 19.01.2010	—	Self-certification by exporter or Chartered Accountant sufficient to establish nexus between input services and exports for Rule 5 refund

© 2026 GST INDIA Biz. All rights reserved.

GST INDIA BIZ