

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

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 86560 of 2019

(Arising out of Order-in-Appeal No. PVNS/39&40/Appeals-II/ME/2019 dated 13.03.2019 passed by the Commissioner of Central Tax, CGST (Appeals), Mumbai)

M/s Saavn Media Private Limited **.... Appellant**
402, Donear House, Plot No. A-50, Roan No. 1,
MIDC, Andheri East, Mumbai – 400093.
Versus

Commissioner of Central Goods & Service Tax-Mumbai East **.... Respondent**
9th Floor, Lotus, Infocentre, Near Parel Station,
Parel East, Mumbai – 400012.

WITH

Service Tax Appeal No. 86561 of 2019

(Arising out of Order-in-Appeal No. PVNS/39&40/Appeals-II/ME/2019 dated 13.03.2019 passed by the Commissioner of Central Tax, CGST (Appeals), Mumbai)

M/s Saavn Media Private Limited **.... Appellant**
402, Donear House, Plot No. A-50, Roan No. 1,
MIDC, Andheri East, Mumbai – 400093.
Versus

Commissioner of Central Goods & Service Tax-Mumbai East **.... Respondent**
9th Floor, Lotus, Infocentre, Near Parel Station,
Parel East, Mumbai – 400012.

Appearance:

Shri Abhishek Deodhar, Advocate for the Appellant

Shri Prabhakar Sharma, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85395-85396/2023

Date of Hearing: 16.03.2023

Date of Decision: 16.03.2023

Per: Anil G. Shakkarwar

Present two appeals are taken together for decision since the issue involved in both of the appeals is the same and the appellant is also the same.

2. Appellants are engaged in export of service and they availed CENVAT Credit of Service Tax paid on the input Services. The appellant filed two separate refund applications for refund of unutilized accumulated CENVAT Credit under the provisions of Notification No. 27/2012-CE dated 18.06.2012 issued under Rule 5 of CENVAT Credit Rules, 2004. Certain amounts were allowed and certain amounts were rejected. Against the refunds rejected, appellants preferred two separate appeals before the Commissioner (Appeals). The Commissioner (Appeals) allowed some relief but also did not allow refund of Rs. 5,97,465/- out of one claim and did not allow refund of Rs. 6,17,759/- in respect of the other claim and therefore, appellant has preferred above stated two appeals in respect of the rejected portion of the two refund claims, before this Tribunal.

3. Learned Counsel for the appellant has submitted that out of above stated amounts reflected in two appeals one is CENVAT Credit of Service Tax paid on Event Management Service and the other one is Service Tax paid on Renting of Immovable Property. He further submitted that they were issued with deficiency memo but there was no issue of show cause notice for rejection of refund. The reason for rejection was that the premises in respect of which

the rent was paid was not included in the Service Tax registration by the appellant.

4. Heard the learned AR who has supported the impugned order.

5. I have carefully gone through the records of both the cases and submissions made. It is now settled law that unless CENVAT Credit availed by the appellant has not been recovered by way of issue of show cause notice invoking Rule 14 of CENVAT Credit Rules, 2004, the CENVAT Credit available on the books of account cannot be rejected when it is accumulated on account of export of Service. In the present case I find that above stated amounts of CENVAT Credit was not disallowed by way of invoking Rule 14 of CENVAT Credit Rules, 2004 and therefore, the said amounts are available in the account of the appellant. Since the CENVAT Credit is available on the accounts of the appellant, the refund of the same could not be rejected. I, therefore, set aside the impugned order to the extent of rejection of refund of CENVAT Credit respectively to the tune of Rs. 5,97,465/- and Rs. 6,17,759/- and direct the original authority to allow the refund of the same.

6. In above terms, both the appeals are allowed.

(Order dictated and pronounced in open court)

(Anil G. Shakkwar)
Member (Technical)