

Refund cannot be denied on account of procedural lapse

In *M/s Origin Learning Solutions Pvt. Ltd. v. Commissioner of Service Tax [Service Tax Appeal No.40599 of 2017 decided on July 20, 2021]* M/s Origin Learning Solutions Pvt. Ltd. (“the Appellant”) is engaged in providing Information Technology Services and are also exporting said services. The Appellant availed credit on the Service tax paid and applied for refund under Rule 5 of the CENVAT Credit Rules, 2004 (“CENVAT Credit Rules”) for the period July, 2013 to September, 2013.

Commissioner - Allowed the refund. Department filed an appeal.

Commissioner (Appeals) - Allowed Department’s appeal and held that the refund sanction is erroneous that the Appellant is not eligible for refund.

The Hon’ble CESTAT, Chennai noted that it is not in dispute that the Appellant is eligible for credit on the service tax paid by them under reverse charge mechanism on input services availed by them.

Observed that the only reason for denying the credit is that they have not reflected such availment of credit in ST-3 returns for July, 2013 to September, 2013. However, the services having been exported, the Service tax paid on the input services used for export of services should be refunded to the Appellant as per Rule 5 of CENVAT Credit Rules. Further, the Appellant has properly accounted in their books of account.

Held that not mentioning the credit availed in ST-3 returns is only a procedural lapse, which can be condoned and allowed the appeal.

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