CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. I

Service Tax Appeal No. 40597 of 2016

(Arising out of Order – in – Appeal No.454 & 455 /2015 (STA-II), dated 31.12.2015 passed by Commissioner of Service Tax (Appeals-II), Chennai)

M/s. Chennai Citi Centre Holdings Pvt Ltd. **...Appellant**
4th Floor, Chennai Citi Centre Mall,
No. 10 & 11, Dr. Radhakrishnan Salai,
Mylapore, Chennai 600 004.

VERSUS

Commissioner of GST & Central Excise **...Respondent**
Chennai Outer Commissionerate
Newry Towers, No.2054 – I
II Avenue, 12th Main Road, Anna Nagar
Chennai 600 040

APPEARANCE:

Ms. N. Asmitha, Advocate for the Appellant
Shri N. Satyanarayana, Authorised Representative for the Respondent

CORAM:
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No.40858/2025

DATE OF HEARING : 08.05.2025
DATE OF DECISION : 26.08.2025

Per Mr. AJAYAN T.V.

Brief facts of the appeal are that M/s. Chennai Citi Centre Holdings Pvt Ltd, the appellant herein, is a registered service tax provider of "renting of immovable property service." The appellant is the owner of a commercial complex mall known as "Chennai Citi Centre" situated at Mylapore, Chennai and has leased out the commercial space in the mall to various tenants. The tenants pay lease rental to the appellant as specified in the lease deed for the leased premises and the appellant was discharging appropriate service tax thereon. The Department being of the view that the appellant was required to pay service tax in respect of the monthly maintenance charges that the appellant collected from these tenants under the category of 'management, maintenance or repair service' had earlier issued issued show cause notices for the past periods proposing service tax demands on such maintenance charges collected by the appellant. In the instant case the Department had issued a Statement of Demand No.269/2013 dated 03.10.2013 (SOD) for the further period from February 2012 to June 2012 alleging nonpayment of service tax on the maintenance charges collected from the tenants during the said period. After due process of law, the adjudicating authority confirmed a demand of service tax of Rs.19,16,098/- along with appropriate interest thereon and imposed a penalty of Rs.10,000/- under Section 77 of the Finance Act 1994 and Rs.1,91,610/- under Section 77(1) of the Finance Act vide OIO No.09/2015 dated 21-07-2015 read with corrigendum dated 04-08-2015. Appellant's appeal against the same was rejected by the appellate authority who upheld the impugned order in original in toto vide the impugned Order in Appeal. Hence this appeal.

2. Ms. N. Asmitha, Advocate, appearing for the appellant drew attention to the lease deed entered into between the appellant as the lessor and the lessees, placed in the appeal records, and submitted that as per clause 8(a) of the lease deed, the cost of maintenance is to be borne by the lessees and as per clause 8(c) of the lease deed, only the actual expenses incurred by the appellant is claimed as reimbursement from the lessees. Ld. Counsel further submits that the present SOD is in continuance of the earlier demands by the Department as per the details of the show cause notices listed in the SOD and the SOD relies on the allegations in the earlier SCNs as part and parcel of the present SOD. Ld. Counsel submits that the appeals pertaining to the proceedings consequent to the earlier SCNs had culminated in Appeal Nos. ST/185/2010, ST/40415/2013 and ST/40416/2013 preferred by the appellant, and have attained finality by virtue of this Tribunal's Final Orders in their own case in the aforesaid appeals and submitted a copy of the Final Order No.41325-

41327/2018 dated 25-04-2018 pertaining to the aforesaid appeals.

3. Shri. N. Sayanarayana, Authorised representative appearing for the Respondent, reiterated the findings of the appellate authority.

4. Heard both sides, perused the appeal records and the Final Order produced in the appellant's own case.

5. We find that the issue, namely, the tenability of service tax demand on the appellant for providing the purported 'management, maintenance or repair' service, stands decided in the appellant's favour vide the Final Order No.41325-41327/2018 dated 25-04-2018, the relevant portions of which are reproduced below:

> "The facts of the case are that appellants are the owners of 'Citi Centre' a shopping mall and had rented / leased out commercial space in the mall to various occupants, through lease deeds. For the renting of immovable property services, the appellants were discharging service tax liability. It appeared to the department that appellants were also required to discharge further tax liability in respect of maintenance and repair, services provided by them to the tenants / lessees for which monthly charges were collected from the latter. Show cause notices were issued to appellants for different periods, inter alia proposing demand of service tax liability in respect of amounts collected by them from the tenants / lessees for maintenance and repair charges, along with interest thereon and imposition of penalties under various provisions of law. Adjudicating authorities vide the impugned orders have confirmed these proposals. Aggrieved, appellants are before this forum.
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> 4. Heard both sides. We find merit in the assertions of the Ld. Advocate. Para-8 (c) of the Lease Agreement makes the situation amply clear and hence the same is reproduced for ready reference:

"8. (c) However for the same of convenient operations is is agreed between the parties hereto that the Lessor shall raise monthly maintenance bills an indicative rate of Rs.6/- per Sq.ft of chargeable area of the said Leased Premises, and the lessee shall make payment of such bills every month. At the end of every year, the Lessor shall furnish to Lessee a statement of the maintenance charges incurred at actual during the relevant previous year, and the Lessee shall be entitled to adjust any credit remaining in its favour against the maintenance charges payable for succeeding year, as necessary. <u>It is abundantly made clear that the lessee shall be responsible to pay only the actual proportionate cost of maintenance charges and lessor hereby agrees and undertakes not to have any profit element for the maintenance charges except pay and park system</u>."

(Emphasis added)

5. We therefore find that the appellants in collecting the impugned amounts are only getting themselves reimbursed for the expenses incurred by them for maintenance and repair and upkeep of the mall, that too on a proportionate and equitable basis, without any profit element for themselves. The ratio upheld by the Hon'ble Apex Court in Intercontinental Consultants Technocrafts Pvt. Ltd. (supra) will apply on all fours to the facts of this case. Following the ratio laid down by the Hon'ble Apex Court, we find in favour of the appellant. Impugned orders cannot then be sustained and are required to be set aside, which we hereby do. Appeals are therefore allowed with consequential relief, if any, as per law."

6. Having regard to the above, we find little reason to uphold the impugned Order in Appeal. Respectfully following the same, we hold that the impugned order in appeal, upholding the demand of service tax and interest as well as the penalties imposed, cannot sustain. The impugned order in appeal is hereby set aside. The appeal is allowed, with consequential relief in law, if any.

(Order pronounced in open court on 26.08.2025)

(AJAYAN T.V.)
MEMBER (JUDICIAL)

(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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