

ORDER SHEET
CEXA/17/2026
IA NO: GA/1/2026, GA/2/2026
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

COMMISSIONER OF SERVICE TAX, SERVICE TAX-II
COMMISSIONERATE PRESENTLY KNOWN AS
COMMISSIONER OF CGST
VS
M/S NATIONAL INSURANCE CO. LIMITED

BEFORE:

The Hon'ble JUSTICE RAJARSHI BHARADWAJ

AND

The Hon'ble JUSTICE UDAY KUMAR

Date: 8th May, 2026.

Appearance:

Mr. Bhaskar Prasad Banerjee, Adv.

Ms. Sretapa Sinha, Adv.

. . .for the appellant.

Mr. Arnab Chakraborty, Adv.

Mr. Aniket Chaudhary, Adv.

. . .for the respondent.

The Court: We have heard learned advocates for either of the parties.

There is a delay of 125 days in filing the appeal. We are satisfied with the explanation offered for not preferring the appeal within time. Therefore, the delay is condoned. The application being GA/1/2026 is allowed.

The appeal is admitted on the following substantial questions of law for consideration.

“1) Whether the learned Tribunal committed error of law and fact, committed wrong interpretation of law and arrived at a perverse finding made in paragraph 11.3 of the CESTAT order, when in

paragraph 2.4 of the adjudication order, the Respondent admitted that for the period 2008-09 to 2012-13, "they had availed and utilized Rs. 3,54,07,226/- and Rs. 1,44,21,459/- respectively as CENVAT credit on agency commission paid for exempted services", which was again in sharp contrast to the figures declared in ST3A return, when the total value of exempted insurance policies sold was Rs. 1424,54,28,359/-, and commission was paid to agents for such exempted services and this admitted facts have not been considered by the Learned Tribunal rendering the order of the Learned Tribunal not sustainable in law.

2) Whether the order passed by the Learned Tribunal is perverse, contrary to the facts and law, and legally unsustainable inasmuch as the Learned Tribunal erroneously treated the disputed input services as "common input services", despite the fact that the adjudication order never treated the said services as common input services nor invoked the mechanism under Rule 6(3)(a), which is applicable only to common input services, and when the adjudication order proceeded entirely on the basis that the input services were used exclusively for exempted output services, squarely attracting Rule 6(1) read with Explanation (ii) to Rule 6(3) of the CENVAT Credit Rules, 2004, and restricted the availment of credit only in respect of input services used exclusively for exempted output services and non-taxable territory, as is evident from paragraphs 4.2, 4.10, and

4.11 of the adjudication order, thereby rendering the impugned order of the Learned Tribunal unsustainable in law?

3) Whether the learned Tribunal committed error of law and fact and committed wrong interpretation of law in holding that the extended period of limitation cannot be invoked, when the basis of the allegations of the department, that the Respondent availed ineligible cenvat credit of service tax on input services used solely for the provision of exempted output services and utilised the same towards payment of output service tax liability, and such availment is against the provisions of law, which amounts to suppression of material fact by way of misstatement in the statutory returns and contravention made with intent to evade payment of service tax?”

The appellant shall file requisite number of informal paper books prepared out of Court including therein all relevant materials used before the learned Court below within ten weeks from date and serve copies thereof upon the learned advocate for the respondent.

Settlement of index and all other formalities are dispensed with.

Since the respondent is represented, service of notice of appeal stands dispensed with.

Let the matter be listed in the monthly list of August, 2026.

IA No.GA/2/2026 is disposed of.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)