

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I**

APPEAL No. ST/50913/2015-CU[DB]

(Arising out of Order-in-Appeal No. APPEALS-I, MRT/HPR/09/2014-15 dated 03/12/2014 passed by Commissioner of Central Excise (Appeals-I), Meerut)

Commissioner of Customs, Central Excise

& Service Tax, Hapur

Appellant

Vs.

M/s Bajrang Motors

Respondent

Appearance:

Shri Mohd. Altaf (Asstt. Commr.) AR
Request for Adjournment

for Appellant
for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 05/12/2018
Date of Decision : 05/12/2018

FINAL ORDER NO. - **72822/2018**

Per: Archana Wadhwa

Being aggrieved with the order passed by Commissioner (Appeals), Revenue has filed the present appeal. We have heard Shri Mohd. Altaf learned A.R. appearing for the Revenue. The respondents made a request for adjournment, which is being rejected as a short issue, covered by precedent decision is involved.

2. As per facts on record, the respondent is an authorized dealer of the vehicle manufactured by M/s Mahindra & Mahindra Ltd. and is engaged in providing the services of 'Authorized Service Station' and 'Business Auxiliary Service'. They are registered with the Service Tax Department and were discharging their service tax liability.

3. The dispute in the present appeal relates to as to whether the incentives/commissions/discounts received from manufacturer of vehicles and financial institutions are liable to service tax or not. The proceedings initiated against them resulting in confirmation of demand by the Original Adjudicating Authority to the extent of Rs.24,14,447/- and Rs.4,21,045/- alongwith imposition of penalties. However, on appeal against the said order, Commissioner (Appeals) set aside the same and allowed appeal.

Hence the present appeal by the Revenue.

4. For arriving at his findings the Commissioner (Appeals) has referred to various decisions of the Tribunal laying down that incentive paid by the manufacturer of the vehicles for arriving at the targets of sale fixed by

them are linked to sale transaction and cannot be held to be a part of the services. Reference stand made by him on the Tribunal decision in the case of Commissioner of Service Tax, Mumbai-I vs. Sai Service Station Ltd. 2014 (35) S.T.R. 625 (Tri.-Mumbai) as also in the case of P. Gautam & Company vs. Commissioner of Service Tax, Ahmedabad, 2011 (24) S.T.R. 447 (Tri.-Ahmedabad), as also various other decisions referred to in the said impugned order. Inasmuch as the Appellate Authority has relied upon the law declared by the Tribunal, we find no infirmity in the impugned order, thus requiring no interference. Accordingly the Revenue's appeal is rejected.

(Pronounced in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Lks