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

APPEAL No. ST/70192/2018-CU[DB]

(Arising out of Order-in-Appeal No.451/ST/Alld/2017 dated 09/12/2017 passed by Commissioner (Appeals), CGST & Central Excise, Allahabad)

M/s Comfort Cars **Appellant**

Vs.

Commissioner of CGST & Central Excise, Allahabad **Respondent**

Appearance:

Shri Dharmendra Srivastava (C.A.) for Appellant
Shri Pawan Kumar Singh (Supdt.) AR for Respondent

CORAM:

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

Date of Hearing : 13/02/2019
Date of Decision : 13/02/2019

FINAL ORDER NO. - **70271/2019**

Per: Archana Wadhwa

On hearing for the appellant, we find that service tax has been confirmed against the appellant, alongwith confirmation of interest and imposition of penalties, under the category of "Rent-a-Cab Operator Services".

2. It is seen that appellants are registered with the Service Tax Department under the said category and were discharging their service tax liabilities wherever the

vehicles were given to individuals for travel. However apart from the said activity, they were also providing vehicles to various companies under a contract, on hiring basis. The said activity was not being discharged to service tax.

3. Revenue by entertaining a view that they have to pay service tax on such hiring of vehicles to various companies, initiated proceedings against them by way of issuance of a show cause notice dated 12/10/2015 raising demand of service tax to the tune of Rs.4,58,162/-, for the period 2010-11 to 2012-13. The show cause notice issued to the appellant stands culminated into the impugned order passed by the Original as well as Appellate Authorities.

4. Learned advocate has brought to our notice decision of the Tribunal in the case of Shree Gayatri Tourist Bus Service 2013 (29) S.T.R. 499 (Tri.-Ahmd.), wherein an identical issue was the subject matter. It is seen that initially there was a division between the two Members of the Original Bench and matter was placed before the third Member. As per the majority order the hiring of vehicles on monthly basis was held as not falling under the category of “Rent-a-Cab Services”. Further the

majority order also observed on the question of limitation and held that as the issue involved was disputed during the relevant period and various benches having held that activities been conducted by the appellant would not be fall under the category of 'Rent-a-Cab Services', *bona fide* impression carried by the appellant could not be faulted with.

As such in terms of the above majority decision of the Tribunal, appellant succeeds on merits as also on limitation. Accordingly, we set aside the impugned order and allow the appeal with consequential relief to the appellant.

(Dictated & Pronounced in Court)

Sd/-	**Sd/-**
(Anil G. Shakkarwar)	**(Archana Wadhwa)**
Member (Technical)	**Member (Judicial)**

Lks