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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 28/02/2018

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. ST/A/70397/2018-CU[DB] dated 23/02/2018

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1 ST/MISC/70381/2017	ST/70921/2016	**Agr Automobiles (p) Ltd** B38/2 A Mahmoorganj VARANASI UP
		Name and Address of Respondent
2		C.C.E. & S.T.-Lucknow 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH-226001

Copy To

3 Bar Association, CESTAT, Allahabad

4 Director Publications, Customs, Excise. I.P. Estate, Delhi

5 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

7 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

8 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

9 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

10 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad -- 38

11 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

12 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

13 C.D.R. 14 Office Copy 15 Second Folder Copy 16 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD
COURT No. I
ST/MISC/70381/2017
APPEAL No.ST/70921/2016-CU[DB]

(Arising out of Order-in-Appeal No. 480-ST/APPL-ALLD/LKO/2016 dated 18/07/2016 passed by Commissioner of Central Excise & Customs (Appeals), Lucknow)

M/s Agr Automobiles (P) Ltd. **Appellant**

Vs.

Commissioner of Central Excise & S.T., Lucknow **Respondent**

Appearance:

Shri Vineet Kumar Singh, **V/n not on record**, for Appellant
Shri Rajeev Ranjan, Joint Commissioner (AR) &
Shri Sandeep Kumar Singh, Deputy Commissioner (AR) for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)
Hon'ble Mr.Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 14/12/2017
Date of Decision : 14/12/2017

FINAL ORDER NO. 70397/2018

Per: Anil Choudhary

The issue in the appeal relates to whether service tax is leviable on receipt(s) in the nature of:

1. Reimbursement of scheme/discount, (by manufacturing of vehicle) provided to customers;
2. Interest on payment made by them on car-spare(s) purchase;
3. Reimbursement of exchange bonus provided to the customers, on old cars.

4. Reimbursement for Events organized by them.

5. Payment of claim in case of damaged car/spares.

6. Incentive payable to them on achievement of target.

7. Retail incentives as applicable-per car.

8. Payment of warranty claim made on behalf of Customers.

2. Pursuant to audit for the period 2008-09 to 2011-12 show cause notice dated 08th April, 2013 was issued as it appeared to Revenue that the appellant have not paid service tax on aforementioned receipts from the manufacturer of car. The appellant is dealer/reseller/traders of car.

3. Heard the parties.

4. Having considered the rival contentions and on perusal of records, we find that the issue herein is already decided in favour of the assessee by the decision of a Co-ordinate Bench of this Tribunal in the case of M/s Sharyu Motors Vs CST, Mumbai reported at 2016 (43) STR 158 wherein also similar incentives were received for achieving sales target from the manufacturer by the appellant. It was held that the amount received for achieving the target of sales cannot be considered as Business Auxiliary Serivce, as incentive are only in the nature of trade discount which are extended to the appellant for achieving the sales target.

Am

5. Accordingly, we find that the issue herein is squarely covered in favour of the appellant-assessee vide the aforementioned ruling in the case of M/s Sharyu Motors (supra). Accordingly, we allow this appeal and set aside the impugned order. Miscellaneous Application also stands disposed of.

(Dictated in Court)

-Sd/-
(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

-Sd/-
(ANIL CHOUDHARY)
Member(JUDICIAL)

akp

प्रमाणित प्रति/Certified True Copy
13/03/18
सहायक पंजीकार/Asstt. Registrar