CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 20363 of 2016

(Arising out of Order-in-Appeal No. CHN-EXCUS-000-APP-346-15-16 dated 24.02.2016 passed by the Commissioner of Central Excise, Customs & Service Tax (Appeals-I), Cochin.)

P J Tomy,
Pulikattil Wood House,
NTBR Finishing Point, Alleppey,
Kerala.

Appellant(s)

VERSUS

Commissioner of Central Excise, Customs and Service Tax (Appeals),
CR Buildings,
IS Press Road,
Kochi - 18

Respondent(s)

APPEARANCE:

None for the Appellant

Mr. Vikalp Jain, Superintendent (AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 21539 /2025

DATE OF HEARING: 22.09.2025
DATE OF DECISION: 22.09.2025

PER : DR. D.M. MISRA

This is an appeal filed against Order-in-Appeal No. CHN-EXCUS-000-APP-346-15-16 dated 24.02.2016 passed by the Commissioner of Central Excise, Customs & Service Tax (Appeals-I), Cochin.

2. Briefly stated the facts of the case are that the appellant are engaged in providing service of house boats. They provide food, accommodation and cruise in the house boat from one place to another, based on the agreed rates and other conditions to the interested visitors. Alleging that the service rendered by the appellant fall under the scope of "Tour Operator" as defined under Section 65(113) of Finance Act, 1994, show-cause notice issued to them for recovery of the service tax of Rs.49,468/- for the period from 01.10.2010 to 30.09.2011 along with interest and penalty. On adjudication, the demand was confirmed with interest and penalty. Aggrieved by the said order, they filed appeal before the learned Commissioner (Appeals), who in turn, rejected their appeal. Hence, the present appeal.

3. None present for the appellant. However, in the grounds of appeal, the appellant has submitted that they are not "Tour Operator" but they are owners of House Boat and providing a service of taking the tourists from one place to another in the backwaters and also sometimes, allow the tourists to stay overnight. Further, they also has submitted that the issue is no more *res-integra* and decided by this Tribunal in the case of CCE. vs. Kerala Backwaters Private Limited vide Final Order No. 20131-20145/2018 dated 08.02.2018.

4. The Learned AR for the Revenue has reiterated the findings of the learned Commissioner (Appeals).

5. We find that this Tribunal, in similar circumstances of rendering services of boarding and lodging by owners of house boats to tourists, after analysing the definition of "Tour Operator" as provided under Section 65 (113) of Finance Act, 1994, observed as follows:

4. After hearing all parties and on perusal of record, it appears that the definition of 'Tour Operator mentioned as per Section 65(113) of Finance Act, 1994 is as follows:-

> "Tour Operator" means any person engaged in the business of planning, scheduling, organising or arranging tours (which may include arrangements accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours in a tourist vehicle or a contract carriage by whatever name called, covered by a permit, other than a stage carnage permit, granted under the Motor Vehicles Act. 1988 or the rules made thereunder;

5. In the instant case, the respondents are providing the accommodation on the request of the tour operators or sometime on direct reservations. They are not providing transportation nor providing the contract carriage They are not holding the stage carriage permits. Their activities are confined to the boat in the water. The boat operators have not control over the schedule of the guests. They are not providing any guidance or planning for the stay in Kerala. The boat can be considered as a hotel in the water. Certainly, the "House Boat Owner" cannot be considered as a tour operator for the reasons that they are not carrying the guests/tourists from one place to another in the state.

6. Following the said precedent, we do not see merit in the impugned order. Consequently, the impugned order is set aside and appeal is allowed.

(Operative part of this Order was pronounced in Open Court on conclusion of the hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

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