CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 3

Service Tax Appeal No. 831 of 2012

(Arising out of Order-in-Appeal No. 07/2012 dated 03.01.2012 passed by the Commissioner of Central Excise (Appeals), Mangalore.)

M/s. Vijayalaxmi Auto Engineering (Hubli) Pvt. Ltd.,
Authorised dealer in TVS Motor,
Near KSRTC Depot, Gokul Road,
Hubli – 580 030.

Appellant(s)

VERSUS

Commissioner of Central Excise,
Office of the Commissioner of Central Excise,
No. 71, Club Road,
Belgaum.

Respondent(s)

APPEARANCE:

None for the Appellant

Mr. Maneesh Akhoury, Assistant Commissioner (AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

Final Order No. 21610 /2025

DATE OF HEARING: 25.09.2025
DATE OF DECISION: 25.09.2025

PER : DR. D.M. MISRA

None present for the appellant despite notice. Heard the learned AR for the Revenue.

2. This is an appeal filed against Order-in-Appeal No. 07/2012 dated 03.01.2012 passed by the Commissioner of Central Excise (Appeals), Mangalore.

3. Briefly stated the facts of the case are that the appellant are registered as Authorised Service Station services and filed refund claim of Rs.1,88,259/- (i.e. service tax of Rs.1,30,542/- + interest of Rs.57,717/-) paid on the service tax for the period from April 2003 to March 2006. The adjudicating authority sanctioned the refund observing that the service tax paid by the appellant on the basis of audit objection accepting the classification as 'Business Auxiliary Service' is not sustainable. Since, the appellant has not carried out activity which falls under the maintenance of 'Business Auxiliary Service', hence the charges collected relating to RTO services not taxable; also he has held that the amount collected is not recovered from the customers, hence the service tax paid and interest is refundable. Aggrieved by the said order, the Revenue filed an appeal before the learned Commissioner (Appeals) who in turn allowed Revenue's appeal. Hence the present appeal.

4. On going through the records, I find that the appellant on the basis of audit objection dated 13.02.2009 at para 4, wherein it is pointed out that the appellant is liable to pay service tax under 'Business Auxiliary Service', since they have collected Rs.18,02,215/- towards RTO registration charges. The service tax calculated was Rs.1,87,587/- and Education cess Rs.3,549/- for the period 2003-2004 to 2006-2007. The said amount was paid by the appellant on 09.07.2009 and 22.07.2009 against TR-6 challans. The said amount was claimed as refund by filing application with the adjudicating authority in the proper format on 18.01.2010. Analysing the RTO charges not leviable to service tax, the adjudicating authority allowed the refund on the basis of the report received from the field formation.

5. I find that the learned Commissioner (Appeals) on the appeal filed by the Revenue held that the amount received from the customers towards registration charges was considered under the category of 'Business Auxiliary Service', hence the

refund claim sanctioned by the adjudicating authority is irregular.

6. On going through the impugned order, I find that the learned Commissioner (Appeals) while allowing the Revenue's appeal held that the amount received from the customers are nothing but promoting the service of the appellant in providing registration service to the appellant which is mandatory under Rule 42 of the Central Motor Vehicle Act, 1989. Therefore, the amount collected by the appellant post sale of the vehicles could be considered as Business Auxiliary Service and leviable to service tax. The learned Commissioner has also held that the excess amount retained by the appellant after incurring the RTO charges and accounted in their balance sheet is leviable to service tax under Business Auxiliary Service. I find that the appellant in their grounds has clearly mentioned that the amount collected by the appellant towards RTO registration charges are spent and the excess amount if any retained by them subsequently passed on to the customers by way of discounts in sale of accessories, spares and etc. Also from the records, I find that on similar issue the Department has accepted the registration charges and excess amount retained by the Dealers not leviable to service tax under the category of Business Auxiliary Service in the case of M/s. Kanchana Auto Mobiles Pvt. Ltd., vide order dated 26.08.2010. The said order has been accepted by the Department and no appeal has been filed against the said order as revealed in the RTI application filed by the appellant enclosed at page 92 of the appeal paper book. In this circumstances, I do not find merit in the impugned order, consequently the same is set aside and order of the adjudicating authority is restored. Appeal is allowed.

(Order dictated and pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

Gb/Raja…