

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
SOUTH ZONAL BENCH  
BANGALORE**

Appeal(s) Involved:

**ST/20430/2018-SM**

[Arising out of No. TVM-EXCUS-000-COM-71-17-18 dated  
30/11/2017 passed by the Commissioner of GST and Central  
Excise, Thiruvananthapuram]

**Popular Vehicles And Services  
Pvt. Ltd.**

(Formerly Popular Vehicles And  
Services Ltd), Showroom , S.H.  
Mount P.O,  
Kottayam – 686 006  
Kerala

**Appellant(s)**

**Versus**

**Commissioner of Central Tax And  
Central Excise,  
Thiruvananthapuram**

P.B.No.13, I.C.E Bhawan,  
Press Club Road  
Thiruvananthapuram – 695 001  
Kerala

**Respondent(s)**

**Appearance:**

None

For the Appellant

Shri. Madhup Sharan, Assistant  
Commissioner (AR)

For the Respondent

Date of Hearing: 29/11/2018

Date of Decision:04/12/2018

**CORAM:**

**HON'BLE SHRI S.S GARG, JUDICIAL MEMBER**

**Final Order No. 21847 /2018**

**Per: S.S GARG**

The present appeal is directed against the impugned order dated 30.11.2017 passed by the Commissioner whereby the Commissioner has confirmed the demand of Rs. 27,842/- (Rupees Twenty Seven Thousand Eight Hundred and Forty Two only) being the service tax payable by the appellant for the period 2014-15 under Section 73(2) of the Finance Act and also demanded interest and imposed a penalty of Rs. 2,784/- (Rupees Two Thousand Seven Hundred and Eighty Four only) under Section 76 of the Finance Act, 1994. Briefly the facts of the present case are that the appellants are engaged in rendering sales and services of Maruti Vehicles. The allegation of the appellant is that while adjudicating show-cause notice No. 209/2016/ST dated 18.04.2016 for the period 2014-15, the Commissioner rejected their claim for deduction in taxable income by Rs. 2,29,544/- (Rupees Two Lakhs Twenty Nine Thousand Five Hundred and Forty Four only) and confirmed service tax on the amount along with interest and penalty. The appellant has further alleged that during the said period April 2014 to March 2015, they have reduced the taxable income by Rs. 2,29,544/- (Rupees Two Lakhs Twenty Nine Thousand Five Hundred and Forty Four only) and remitted service tax for the period. The reason for such deduction was that they had received Rs. 6,50,000/- (Rupees Six Lakhs Fifty Thousand only) as advance insurance commission during 2013-14 on which they had paid service tax immediately and utilized Rs. 2,29,544/- (Rupees Two Lakhs Twenty Nine Thousand Five Hundred and Forty Four only) against their claim of commission from ICICI during 2014-15. Appellant has further alleged that the Commissioner has rejected their claim only on the ground

that it is relating to 2013-14.

2. None has appeared on behalf of the appellant but the appellant has sent the written submissions. I have heard the learned AR and have perused the records. I have also perused the certificate issued by the Chartered Accountant for the appellant wherein the Chartered Accountant has certified that as per the books of records of Popular Vehicles and Services Ltd. for the financial years 2013-14, 2014-15 and 2015-16, the appellant has received advance insurance commission of Rs. 6,50,000/- (Rupees Six Lakhs Fifty Thousand only) on 31.03.2014 from ICICI Lombard General Insurance Company through IDBI Bank and service tax @12.36% was collected and remitted on 23.04.2014 and the said advance insurance commission was recognized as income in the Profit and Loss Account in the subsequent years. The Chartered Accountant has further certified that the company was not liable to pay service tax on the income since service tax was already remitted at the time of receipt of advance on 31.03.2014. Further I find that the Commissioner has ignored this fact which was specifically pleaded by the appellant that they have already paid the service tax on the advance insurance commission of Rs. 6,50,000/-(Rupees Six Lakhs Fifty Thousand only) and therefore they are not required to pay the service tax again. In view of the certificates furnished by the Chartered Accountant certifying that they had already remitted the tax on Rs. 6,50,000/- received from ICICI insurance company as advance commission and subsequently reduced the taxable insurance income to the extent of Rs. 2,29,544/- (Rupees Two Lakhs Twenty Nine Thousand Five Hundred and Forty Four only) in 2014-15 and

Rs. 4,20,456/- (Rupees Four Lakhs Twenty Thousand Four Hundred and Fifty Six only) in 2015-16. In view of the certificate of Chartered Accountant, I find that confirmation of demand of Rs. 27,842/- (Rupees Twenty Seven Thousand Eight Hundred and Forty Two only) is not sustainable and therefore the same is set aside by allowing the appeal of the appellant with consequential relief, if any.

(Order pronounced in Open Court on **04/12/2018**)

**(S.S GARG)**  
**JUDICIAL MEMBER**

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