IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

ST/136/2009

(Arising out of Order-in-Revision No.7/2008 ST (R) dated 28.11.2008 passed by the Commissioner of Central Excise, Madurai)

M/s. Safe Tyres — Appellant

Vs.

Commissioner of Central Excise, Madurai — Respondent

Appearance

None for the Appellant
Shri K.P. Muralidharan, AC (AR) for the Respondent

ST/CO/89/2009 and ST/445/2009

(Arising out of Order-in-Appeal No.44/2009-ST dated 8.7.2009 passed by the Commissioner of Central Excise (Appeals), Coimbatore)

Commissioner of Central Excise, Coimbatore — Appellant

Vs.

M/s. Sri Balaji Retreading (P) Ltd. — Respondent

ST/CO/95/2009 and ST/487/2009

(Arising out of Order-in-Appeal No.43/2009-ST dated 8.7.2009 passed by the Commissioner of Central Excise (Appeals), Coimbatore)

Commissioner of Central Excise, Coimbatore — Appellant

Vs.

M/s. Select Retreading (P) Ltd. — Respondent

Appearance

Shri K.P. Muralidharan, AC (AR) for the Appellants
Ms. D. Naveena, Advocate for the Respondents

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing / Decision: **07.08.2017**

Final Order Nos. 41533-41535/2017

Per Bench

The issue in the above appeals is against the demand of service tax raised by denying the benefit of Notification No. 12/2003-ST dated 20.6.2003.

2. The appeals being connected are heard together and are disposed by this common order.

3. The assessees are engaged in retreading of old tyres using bought-out tread rubber and other items like paste and other materials required for retreading. While clubbing the tread rubber charges for such retreading work, cost of tread rubber in retreading is also received from the customer. Though the appellant paid the service tax, the department was of the view that the entire cost has to be subject to levy of service tax. Show cause notices issued were confirmed and assessees have thus approached this Tribunal

4. In Appeal No. ST/445/2009 and ST/487/2009, the department is in appeal against the order passed by the lower appellate authority who has set aside the demand giving the benefit of Notification No. 12/2003.

5. The issue whether in providing tyre retreading service, cost of materials are liable to deducted in terms of Notification No.12/2003-ST is settled by the decision of the Hon'ble Supreme Court in the case of Safety Retreading Company – 2017-TIOL-28-SC-ST.

6. Following the above judgment, we hold that the demand is not sustainable and the appeal filed by the assessee is allowed. Consequently, the appeals filed by the department are dismissed. Cross-objections filed by the assessees are also disposed accordingly.

(Operative portion of the order was pronounced in open court)

(Madhu Mohan Damodhar)	**(Sulekha Beevi C.S.)**
Member (Technical)	Member (Judicial)

Rex

Customs, Excise & Service Tax Appellate Tribunal

प्रमाणित प्रति / Certified True Copy
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सहायक पंजीकार / Asst. Registrar
सीमाशुल्क उत्पादशुल्क एवं सेवा कर अपील अधिकरण / (CESTAT)
चेन्नै / Chennai