

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

ST/707/2010

(Arising out of Order-in-Appeal No. ^(MST) 164/2010- dated 27.08.2010
03.01.2011 passed by the Commissioner of Central Excise
(Appeals), Chennai)

M/s. Popular Vehicles & Services Ltd.

Appellant

Vs.

CCE & ST, Chennai

Respondent

Appearance

None

for the Appellant

Shri K. Veerabhadra Reddy, JC (AR)
for the Respondent

CORAM :

Hon'ble Smt. ARCHANA WADHWA, JUDICIAL MEMBER
Hon'ble Shri B. RAVICHANDRAN, TECHNICAL MEMBR

Date of Hearing/Decision: **21.12.2017**

FINAL ORDER No. 43450 /2017

Per: Archana Wadhwa

Nobody is present on behalf of the appellant. We have heard the Ld. AR and gone through the impugned order. It is seen that the issue involves tax liability of the commission received by the appellant from banks and NFBC under the category of BAS. The

Archana Wadhwa



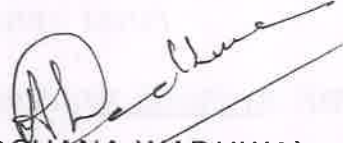
appellants have discharged the entire service tax liability along with interest and the only challenge is the penalty.

2. The appellant's contention is that the issue was not free from doubt and was subject matter of litigation before various courts. Reference stands made to various precedent decisions of the Tribunal including the LB decisions in the case of *Pagariya Auto Center Vs. CCE, Aurangabad* – 2014 (33) STR 506 (Tri.-LB). he also submits that in similar set of facts and circumstances, Calicut Commissionerate in its own case has set aside the penalty.

3. We note that the penalty impositions are primarily and mostly for mala fide quality minds. When the issue involved invite legal issue of the interpretation of provisions of law, especially within the field of service tax, which was a new law and not fully settled, the imposition of penalty cannot be held to be justified. We accordingly set aside the same and allow the appeal to that extent.

(Order dictated and pronounced in the open Court on)


(B. RAVICHANDRAN) 22.1.18
TECHNICAL MEMBER


(ARCHANA WADHWA)
JUDICIAL MEMBER

BB



प्रमाणित प्रति / CERTIFIED TRUE COPY
Jc. S. Ramsh
02/03/18
सहायक पंजीकार / Assistant Registrar
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर अपील विभाग,
चेन्नई / CESTAT, CHENNAI - 600 006.