CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH – COURT NO.4

Service Tax Appeal No. 50060 Of 2020

[Arising out of Review Order No. 10/Service Tax/2019 dated 04.12.2019 passed by the Joint Commissioner of Central Goods Service Tax & Central Excise, Bhopal (M.P.)]

Principal Commissioner, Central Goods Service Tax, Customs and Central Excise, Bhopal-I : **Appellant**
48 Administrative Area, Arera Hills
Bhopal, M.P. 462011

Vs

Win Win Automobiles Private Limited : **Respondent**
NH-12, Hoshangabad Road, Misrod
Bhopal M.P. 462026

With
Service Tax Appeal No. 50981 Of 2021

[Arising out of Review Order No. 10/Service Tax/2019 dated 04.12.2019 passed by the Joint Commissioner of Central Goods Service Tax & Central Excise, Bhopal (M.P.)]

Principal Commissioner, Central Goods Service Tax, Customs and Central Excise, Bhopal-I : **Appellant**
48 Administrative Area, Arera Hills
Bhopal, M.P. 462011

Vs

Ashok Shrimal : **Respondent**
General Manager (Finance)
M/s Win Win Automobiles Private Limited
NH-12, Hoshangabad Road, Misrod
Bhopal M.P. 462026

With
Service Tax Appeal No. 50982 Of 2021

[Arising out of Review Order No. 10/Service Tax/2019 dated 04.12.2019 passed by the Joint Commissioner of Central Goods Service Tax & Central Excise, Bhopal (M.P.)]

Principal Commissioner, Central Goods Service Tax, Customs and Central Excise, Bhopal-I : **Appellant**
48 Administrative Area, Arera Hills
Bhopal, M.P. 462011

Vs

Virender Singh : **Respondent**
Director,
M/s Win Win Automobiles Private Limited
NH-12, Hoshangabad Road, Misrod
Bhopal M.P. 462026

APPEARANCE:
Shri Yashwant Singh and Shri Mayank Sapree, Advocates for the Appellant
Shri Manoj Kumar Authorised Representative for the Respondent

CORAM :

HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER No. 51359-51361/2025

Date of Hearing:29.08.2025

Date of Decision:29.08.2025

DR. RACHNA GUPTA

The present order disposes of 3 appeals filed by the Department pursuant to Review Order No. 10/2019 dated 04.10.2019 for assailing a common Order-in-Appeal No. 144-145 and 146-19-20 dated 31.-7.2019. The details are as follows:-

Sr. No	Appeal No.	Filed by	Demand Confirmed
1	ST/50060/2020	Principal commissioner, CGST,Customs and Central Excise, Bhopal-I Vs. M/s Win Win Automobiles Private Limited	Service Tax of Rs. 1,60,11,685/- & Penalty of Rs. 1,60,11,686/-
2	ST/50981/2020	Principal commissioner, CGST,Customs and	Penalty of Rs. 10,000/-

		Central Excise, Bhopal-I Vs. Shri Ashok Shrimal, General Manager (Finance)	
3.	ST/5009822020	Principal commissioner, CGST,Customs and Central Excise, Bhopal-I Vs. Shri Virender Singh, Director	Penalty of Rs. 10,000/-

2. The brief facts of the case are that the appellants were engaged in the business of trading of cars, accessories and spares and also in servicing of the cars being the authorized dealers of Mahindra and Mahindra Limited. The officers of DGCEI received an intelligence that the appellants are billing and collecting an amount of 'Insurance payouts from the insurance companies, RTO Labour Charges and Cancellation Charges' but tax against these amounts have not been paid. The appellant Shri Virender Singh was also found to have short paid service tax on the income shown against repair and re-conditioning restoration or decoration or any other similar services of any motor vehicle. But, tax was not paid on the income received nor on others as 'incentive or other income' as received from Mahindra and Mahindra and as were otherwise shown under different sub-heads of indirect income in profit and loss account.

3. With these observations, vide show cause notice bearing no. 12004/08/2015 dated 21.11.2017, service tax amounting to Rs. 1,60,11,685/- was proposed to be recovered alongwith interest and the separate penalties on 3 of the present appellants. The said proposal was initial confirmed vide Order-in-Original No. 26/2018

dated 06.11.2018. However, in an appeal against the said order, the penalty against upon Shri Ashok Shrimal, General Manager of M/s Win Win Automobiles Private Limited and Shri Virender Singh, Director of the said company have been allowed. However, the appeal of M/s Win Win Automobiles Private Limited was partly allowed. Commissioner (Appeals) has dropped the service tax demand of Rs. 68,02,942/-. The Department is in appeals against the said order of set-asiding the penalties upon the person and dropping the partial demand is against the company.

4. Heard both the parties and perused the case records.

5. We have observed that the demand which has been dropped amounting to Rs. 68,02,942/- allegedly under the category of 'Business Auxiliary Service' for the period March 2012 to March 2016 is the amount of incentives/trade discounts. The issue with respect to such amounts has already been settled by the Hon'ble Apex Court in the case of **Southern Motors vs. State of Karnataka 2017 (358) ELT 3 (S.C.),** wherein it was observed as under:-

> "26. A trade discount conceptually is a pre-sale concurrence, the quantification whereof depends on many factors in commerce regulating the scale of sale/purchase depending, amongst others on goodwill, quality, marketable skills, discounts, etc. contributing to the ultimate performance to qualify for such discounts. Such trade discounts, to reiterate, have already been recognized by this Court with the emphatic rider that the same ought not to be disallowed only as they are not payable at the time of each invoice or deducted from the invoice price."

Thus, it is clear that there is no infirmity when the demand of said amount has been dropped by the adjudicating authority and for the same reason the penalties upon the Director and the General Manager of the Company has been set-aside. With these observations, we have no reason to differ with the findings arrived at by the adjudicating authority.

6. The demand confirmed for an amount of Rs. 72,00,166/- is the service tax liability towards the amount of commission on handling charges, RTO labour charges etc. We do not find any infirmity when rendering all these activities are alleged to be taxable under Business Auxiliary Service.

7. The period in dispute is post introduction of concept of service in Section 66 (44) of Finance Act, 1994 which has done away the concept of classification of the services as it defines services as taxable activity except the nature of the services falls under any of the categories of Section 66D (negative list of the Act) of Finance Act, 1994 providing business support is no where mentioned in Section 66D. Hence, the activities rendered by the appellants are rightly held to be a taxable service. The demand is therefore rightly been confirmed.

6. With these observations, we do not find any infirmity in the order under challenge, the same is hereby upheld. Consequent thereto, 3 of the appeals are dismissed.

(Dictated & pronounced in the open Court)

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

G.Y.