

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 3**

**Service Tax Appeal No.51065 of 2020
In
Service Tax Cross No.50291 of 2020**

[Arising out of the Order-in-Appeal No.28/ST/DLH/2020, dated 24.06.2020 passed by the Principal Commissioner, Central Tax, GST Delhi North, new Delhi]

Principal Commissioner of CGST Delhi North

Appellant

C.R.Building, I.P. Estate, New Delhi

Vs.

M/s. Ahlan Hajj and Umrah Services

Respondent

Municipal No.4998, Plot No.58,
Dayanand Road, Daryaganj, New Delhi-110002

Appearance:

Present for the Appellant : Shri V.K.Jain, Authorised Representative

Present for the Respondent: Shri Abhas Mishra, Advocate

CORAM:

HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)

HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Date of Hearing/Decision: **09/12/2025**

Final Order No.51863/2025

BINU TAMTA:

The department has challenged the Order-in-Appeal no.28/ST/DLH/2020 dated 24.06.2020 whereby the Commissioner (Appeals) has remanded the matter back to the Adjudicating Authority in view of the observations made in Paragraphs 9.1, 9.2 and 9.3. The appeal has been filed by the Revenue on the ground that the Commissioner (Appeals) have no power to remand the matter. However, the parties have placed before us the order of High Court of Madras in **A.S. Babu Sah Designs vs. Commissioner of Central**

Excise (Appeals), Chennai¹, where Court has concluded that while exercising power under section 85 (4) of the Finance Act, the Commissioner (Appeals) have power to pass order as he thinks fit and such orders includes an order of remand and the amendment to section 35A (3) w.e.f. 11.05.2001 does not, in any manner, impact the power of the Commissioner (Appeals).

2. In view thereof, there is no error in the impugned order remanding the order back to the original authority. However, we would like to make it clear that the Adjudicating Authority may consider the matter afresh de novo granting opportunities to parties to present their case. The appeal filed by the Revenue is dismissed. The matter stands remanded to the original authority.

(BINU TAMTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Archana