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

SERVICE TAX APPEAL NO. 50457 OF 2021

[Arising out of Order-in-Original No.UDZ-EXCUS-000-COM-0016-19-20 dated 20.11.2019 passed by the Commissioner, Office of the Commissioner, Central Excise, Goods & Service Tax Commissionerate, Udaipur]

M/s. Navneet Motors **...APPELLANT**
S-140, MIA, Udaipur
(Rajasthan)

Vs.

The Commissioner, **...RESPONDENT**
Office of the Commissioner, Central Excise,
Goods & Service Tax Commissionerate, Udaipur
142-B, Hiran Magri, Sector 11, Udaipur

And

SERVICE TAX APPEAL NO. 50458 OF 2021

[Arising out of Order-in-Original No.UDZ-EXCUS-000-COM-0016-19-20 dated 20.11.2019 passed by the Commissioner, Office of the Commissioner, Central Excise, Goods & Service Tax Commissionerate, Udaipur]

Shri Lalit Narain Mathur, **...APPELLANT**
Partner, M/s. Navneet Motors,
S-140, MIA, Udaipur
(Rajasthan)

Vs.

The Commissioner, **...RESPONDENT**
Office of the Commissioner, Central Excise,
Goods & Service Tax Commissionerate, Udaipur
142-B, Hiran Magri, Sector 11, Udaipur

Appearance:
Present for the Appellant : Shri S.C. Vaidyanathan, Advocate
Present for the Respondent: Shri V.K. Jain, Authorised Representative

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Date of Hearing :31.10.2025
Date of Decision:29.01.2026

Final Order Nos.50157-50158/2026

HEMAMBIKA R. PRIYA

The present two appeals arise out of the common Order-in-Original No.UDZ-EXCUS-000-COM-0016-19-20 dated 20.11.2019 passed by the Commissioner, Office of the Commissioner, Central Excise, Goods & Service Tax Commissionerate, Udaipur against M/s. Navneet Motors[1] confirming a demand of service tax Rs.2,85,74,520/- alongwith equal amount of penalty under section 78 of and a penalty of Rs.10,000/- under section 77(2) and Penalty against Shri Lalit Narain Mathur[2] of Rs.10,00,000/- under section 77(2) of the Finance Act, 1994.

2. The brief facts are that the Appellant is an authorised dealer of Maruti Suzuki India Limited (MSIL) and Ashok Leyland Limited (ALL) and functioning as a seller and distributor of MSIL and ALL vehicles. The Appellant purchases vehicles from MSIL and ALL on principal-to-principal basis and sells them to the retail customers. MSIL and ALL charges inter alia appropriate Central Excise duty and Sales tax/ VAT on the sale of vehicles to the Appellant. Besides, the Appellant owns

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1. the Appellant no.1
2. the Appellant no.2

authorised service stations for repair and maintenance of MSIL and ALL vehicles as well as body shop for repair of accidental vehicles. The Appellant had entered into a Dealership Agreement dated 01.01.2010 was entered into between MSIL and Appellant. Similarly, a Dealership Agreement dated 23.01.2013 was entered into between ALL and Appellant.By the Dealership Agreement, certain arrangements have been entered into by MSIL with all its dealers, including the Appellant, for giving discounts, incentives, rewards, etc.The Appellant has a broader arrangement with MSIL, flowing directly from the Dealership Agreement, vide which MSIL agrees to pass various conditional incentives/ payouts/ discounts on fulfillment of the specified conditions. The quantification of such incentives/ payouts/ discounts is undertaken at specified intervals after the supply.Similarly, MSIL has informed the Appellant of various incentive schemes in advance, the quantification for which takes place after the supply. The schemes are extended to all the dealers of MSIL. The modality of schemes is known to MSIL and the Appellant in advance, while the quantification may be undertaken later, subject to the specified conditions.The investigation was initiated based on the intelligence received by the officers of Directorate General of GST Intelligence, Jaipur Zonal Unit (DGGI), who formed an opinion that Service tax was not paid by the authorized dealers of MSIL in relation to certain payments received as incentives/ discounts/ reimbursements which were in nature of consideration for service. On completion of the investigations, show cause notice dated 23.04.2019 was issued alleging that the Appellant had carried out an activity defined under Section 65(44) of the Chapter V of the Finance

Act, 1994 (Act) for MSIL and ALL for a consideration; that incentives/ discounts/ reimbursements have been received by the Appellant upon achievement of certain purchase as well as sales target specified by MSIL and ALL; that it was contingent upon the Appellant to achieve such targets; that as per Section 66E(e) of the Act, activity undertaken by the Appellant shall constitute a declared service, namely, 'agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; that amount of incentives/ discounts/ reimbursements received for doing an act appears to be the consideration received as per Section 67 of the Act. The Show Cause Notice also proposed imposition of penalty on Shri Lalit Narain Mathur, Partner of the Appellant under Section 77(2) of the Act. The Commissioner, CGST and Central Excise, Udaipur vide Order-in-Original dated 20.11.2019 had confirmed the entire demand of Service tax as proposed in the SCN along with interest and penalty equal to the demand confirmed, under the extended period of limitation. The Commissioner has further confirmed the penalty on Shri Lalit Narain Mathur to the extent of Rs. 10.00.000. Aggrieved by the impugned order, the Appellant has filed the present appeal on the following grounds which are independent of, and without prejudice to, each other.

3. Learned counsel submitted that the issue is no longer *res integra* and had been decided by the Tribunal in several of its decisions. Ld Counsel contended that the appellant is not liable to pay service tax on the incentives/discounts reimbursements received from vehicle

manufacturers under incentive schemes, as they are not consideration for provision of any services by the appellant to vehicle manufacturers. He relied on the case of **Philips India Ltd. v. Collector of Central Excise, Pune**[3], wherein the Tribunal upheld the disallowance of trade discount claimed by the assessee from the assessable value for levying Central Excise duty charged by theassessee from its dealers in terms of their agreement, where the substantial portion of said 'trade discount' is represented by advertisement expenses and expenses on after sales services incurred by the dealers which were includible in the assessable value.On Appeal, the Hon'ble Supreme Court of India held that the advertisement which the dealer was required to make at its own cost benefited in equal degree the assessee and the dealer and that for this reason the cost of such advertisement was borne half and half by the assessee and the dealer.

3.1 Learned Counsel also placed reliance on the following decisions:

i) **Comet Car Sales and Service Private Limited** vs. **Commissioner of Central Excise & Service Tax- Surat I**[4];

ii) **Shree Ambica Auto Sales and Services** v. **Commissioner of C.E. & S.T. - Surat-I**[5];

iii) **Prem Motors Pvt. Ltd.** v. **Commissioner, Central Excise and CGST, Jaipur**[6];

3. 1997 (91) E.L.T.540 (S.C.)
4. 2024 (11) TMI 667- CESTAT Ahmedabad
5. 2024(10) TMI 901 - CESTAT Ahmedabad
6. (2023) 4 Centax 308 (Tri. - Del)

iv) **Reliable Automotive Private Limited** v. **Commissioner of CGST and Central Excise, Mumbai**[7]**,**

v) **M/s Bimal Auto Agency** v. **Commissioner of CGST and CX, Dibrugarh Commissionerate**[8]**,**

vi) **Rohan Motors Limited** v. **Commissioner of Central Excise, Dehradun**[9]**,**

vii) **Jubilant Motor Works (South) Pvt. Ltd.** v. **The Commissioner of GST & Central Excise, Chennai**[10]**,**

viii) **T.V. Sundaram Iyengar & Sons Pvt. Ltd.** v. **Commr. Of CGST & C.Ex., Madurai**[11]**,**

ix) **M/s Roshan Motors Pvt. Limited** v. **Commissioner of Central Excise and Customs, CGST, Jaipur**[12]**,**

x) **Rajasthan Diesels** v. **Commissioner, Central Excise - Jaipur**[13]**,**

xi) **Toyota Lakozy Auto Pvt. Ltd.** v. **C.S.T., C.Ex., Mumbai I-II & IV**[14]**,** and

xii) **CST, Mumbai-I v. Sai Service Station Ltd**[15]**.**

He further submitted that the above decisions were squarely applicable in the present case wherein the demand of Service tax on

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7. 2024(4) TMI 66 – CESTAT Mumbai
8. 2023(6) TMI 1082 - CESTAT Kolkata
9.2021 (45) G.S.T.L. 315 (Tri. - Del.)
10.2024(2) TMI 819 - CESTAT Chennai
11.2021(55) G.S.T.L. 144 (Mad.)
12.2022(8) TMI 1254 - CESTAT New Delhi
13.2023(10) TMI810 - CESTAT New Delhi
14.2017 (52) STR 299 (Tri-Mumbai)
152014(35) S.T.R. 625 (Tri-Mumbai)

incentives/ discounts/ payments received by the dealer from the vehicle manufacturer in respect of performance-based schemes was set aside.

3.2 Learned counsel also submitted that even if the Appellant is liable to pay Service tax, the computation of tax demand confirmed in the impugned order is not correct as the value of taxable services has to be treated as being cum-tax, i.e., inclusive of the amount of Service tax.According to Section 67(2) of the Act consideration shall include the Service tax paid or payable along with the said consideration. The Commissioner in the impugned order had given a finding that benefit of cum-tax valuation is available only if the assessee intended to actually pay tax. Therefore, benefit of cum-duty cannot be extended to the Appellant. In this context, the Commissioner on in **Amrit Agro Industries Ltd.** v.**Commissioner of C. Ex, Ghaziabad**[16]. However, ld counsel contended that this decision was not applicable.

3.3. Learned counsel also submitted that extended period of limitation is not invocable, as there was no suppression. Consequently, the demand is time-barred., and the imposition of penalty and recovery of interest is not sustainable. He prayed that the impugned order may be set aside.

4 Learned Authorised Representative reiterated the findings of the Commissioner. However, he conceded that the matter was squarely covered by the decisions relied upon by the learned counsel for the appellant.

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16. 2007 (210) E.L.T. 183 (S.C.)

5. We have gone through the records, and heard the learned counsel for the appellant and Learned Authorised Representative for the Department. The issue involved in the present appeal is about service tax demand from the authorized dealers of the vehicle manufacture, on the incentives / discounts received by the appellant from manufacturers viz., Maruti Suzuki India Ltd. and M/s Ashok Leyland. The amount of the incentives / discounts received by the appellants during the period from, October 2013 to June 2017 amounting to Rs. 2,85,74,520/- has been alleged as taxable under Section 65B(51) of the Finance Act, 1994. However, it has fairly been conceded that the said issue stands already decided in the several decisions of the Tribunal wherein it was concluded that the incentives / discounts received by the appellants / dealers of car manufacturer were not taxable under BAS, as they were the part of a business transaction on a principal-to-principal basis.

6. The Tribunal in **B.M. Auto link** vs. **Commissioner CGST, Ahmadabad**[17] held as follows:-

> " 4. We have carefully considered the submissions made by both the sides and perused the records. We find the fact is not under dispute as the appellant being a dealer purchase the vehicles from M/s Maruti Suzuki India Ltd and subsequently sell the same to various customers. The transaction between M/s Maruti Suzuki India Ltd and the dealer and subsequently sale transaction between the dealer and the end customers are purely on principle to principal basis. The vehicle manufacturer M/s Maruti Suzuki India Ltd. on the basis of yearly performance of sale grants the discount to the dealer, this discount is nothing but a discount in the sale value of the vehicle sold throughout the year therefore

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17. 2022-VIL-900-CESTAT-AHM-ST

> these sales discount in the course of transaction of sale and purchase of the vehicles hence, the same cannot be considered as service for levy of service tax."

7. In this connection, reference also needs to be made to the decision of the Tribunal in **Rohan Motors Ltd**. vs. **Commissioner of Central Excise, Dehradun**[18], wherein the Tribunal observed as follows:

> "As per the agreement with MUL, the appellant has received various incentives/ discounts / bonus etc. from MUL from time to time. The income received under these heads was accounted by the appellant in their books of accounts as "miscellaneous income". During the course of audit of the books of accounts of the appellant, the Department noticed such Misc. income and took the view that such amounts received by the appellant from MUL are consideration towards promotion and marketing of the vehicles manufactured by MUL and such consideration is liable for payment of Service Tax under the category of Business Auxiliary Service. By taking the above view, show cause notice dated 17.10.2011 was issued covering the period 01.04.2006 to 31.03.2011. Further, show cause notice dated 09.10.2012 was issued covering the period 01.04.2007 to 31.03.2012. The proceedings initiated under the above show cause notices resulted in the issue of two impugned orders, which are under challenge in the present appeals. Since the issue involved is common, these appeals are disposing of with this common order.
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> 3. The demands have been raised by Revenue through the two impugned orders covering overlapping periods. Demand has been made under the category of Business Auxiliary Service for the amounts received by the appellant from M/s. MUL. Such amounts have been received towards incentives/discounts in connection with the sale of the vehicles manufactured by MUL. In addition, certain amounts have also been received by the appellant towards Registration/ Number Plate etc. to facilitate the buyers of vehicles. All the above amounts have been charged under BAS. Certain amount of Service Tax has also been demanded under the category of GTA in respect of freight paid by the appellant towards transport of vehicles from their dealership to the customers' premises."

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18. 2019(8) TMI 116

8. The Tribunal placed reliance on an earlier decision of the Tribunal in **Toyota Lakozy Auto Pvt. Ltd.** v. **Commissioner Service Tax, Mumbai –II & V**[19] and observed as follows:

> "4. From a perusal of various case laws relied by the appellant, we note that the discounts/incentives received by the appellant from MUL cannot be made liable for payment of Service Tax under BAS, since the appellant is purchasing the cars from MUL on principal to principal basis and subsequently, reselling the same.
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> 5. Revenue has ordered for payment of Service Tax under various receipts recorded under miscellaneous income. These include loading/unloading charges, Pollution Checkup charges, penalty-cum processing charges etc. It is obvious that these amounts have been received not towards provision of any service on behalf of MUL or anybody else. Consequently, there is no justification for levying Service Tax under BAS.
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> 6. In miscellaneous income, commission amounts received from ICICI have also been included. This commission has been received for provision of furniture to ICICI for facilitation of accommodating representatives in the premises of the appellant for selling insurance policies for cars. Such an activity cannot be considered under BAS as has been held by the Larger Bench in the case of Pagadiya Auto Centre (supra). Consequently, we set aside the demand of Service Tax on such commission received.
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> 7. A portion of the demand also has been raised under the category of GTA. The appellant has paid the freight expenses in connection with transportation of Cars to their customers. However, they have not issued any consignment notes which are necessary to identify the appellant as a goods transport agency. As per the views expressed by the Tribunal in the case of South Eastern Coal Fields Ltd. (supra), in the absence of consignment notes, the activity of the appellant cannot be classified under GTA service. Consequently, we set aside the demand under GTA service."

9. In view of the settled position of law, we hold considered view that the amount of incentives and discounts cannot be treated as consideration for any service and therefore no Service Tax is leviable thereon. Having decided the issue on merits in favour of the assessee,

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19. 2017 (52) STR 299 (Tri.- Mumbai)

it is no longer required to go into the question of limitation raised by the appellant.

10. The impugned order is, therefore, set aside and the appeals are allowed accordingly.

(Order pronounced on **29.01.2026**)

(BINU TAMTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Archana