

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Service Tax Appeal No. 50076 of 2017

[Arising out of Order-in-Appeal No. 177/AK/ST/JPR/2016 dated 13/06/2016 passed by the Commissioner, Customs Central Excise (Appeals), Jaipur]

M/s. Ram Pratap Jat

S/O Shri Uma Ram Jat,
Gajner Road, Old Chungi
Bikanaer, Rajasthan

...Appellant

VERSUS

CCE & ST, Jaipur- I

NCR Building, Statue Circle, C-scheme,
Jaipur, Rajasthan-302005

...Respondent

APPEARANCE:

Shri O.P. Agarwal, CA Advocate for the Appellant

Shri Rajeev Kapoor, DR Authorized Representative for the Respondent

CORAM:

HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)

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

DATE OF HEARING: 19.03.2026

DATE OF DECISION: 23.04.2026

FINAL ORDER NO. 50776/2026

DR. RACHNA GUPTA

The present appeal is filed to assail order-in-Appeal (O-I-A) bearing no. 177/2016 dated 13-06-2016. The facts which culminated into the said adjudication Order are as follows: -

1.1 Ram Pratap Jat, the appellant here in, was engaged in providing Rent-a-Cab Service to M/s Rajasthan State Road Transport Corporation (RSRTC). The department observed the activity to be taxable, Rent-a-Cab Service. But the

appellant had neither taken service tax registration nor had filed the ST-3 returns. The appellant was found to have received amount of Rs. 26,45,703/- (after 60% abatement on the gross value of Rs. 66,14,256) during the period from April 2007 to September 2009. Alleging service tax liability of the appellant on the said amount and willful suppression on part of appellant that the show cause notice bearing number 127/2011/673 dated 18-06-2012 was served upon the appellant invoking the extended period of limitation and proposing the demand of service tax amounting to Rs. 3,22,431/- and recovery thereof along with the interest at appropriate rate and the proportionate penalties under section 76, 77,78 of the Finance Act, 1994. The said proposal has been confirmed vide order in original (O-I-O) bearing number 27/2013 dated 26.02.2013. The Commissioner (Appeals) has upheld the Order-in-Original except that the appellant is held eligible for the threshold exemption as provided under notification number 4/2007 dated 13.06.2007 on the aggregate value of taxable services for the period 01.06.2007 to 31.03.2008 (Para 8.1) of the Order-in-Appeal. Appeal was thus partially allowed. Still being agreed the appellant is before this Tribunal.

2. We have heard Shri OP Agarwal authorized representative/C. A the appellant and Shri Rajeev Kapoor, Ld. Authorized Representative for the Department.

3. The authorized Chartered Accountant (C.A) for the appellant submitted that appellant has provided two buses with driver to Rajasthan state road transport corporation (RSRTC) for consideration. The demand in question has been confirmed holding that the said activity amounts to taxable service. The C.A. mentioned that though, the buses were given to RSRTC along with driver and maintenance responsibility thereof with appellant, but the appellant was under bonafide belief that activity was not taxable under Rent-a-Cab service. Since the

effective possession and control was with the appellant and the same amounted to giving the vehicles on hire. Following decisions of the Tribunal are relied upon: -

a. Shree Gayatri Tourist Bus Service V/s CCE 2013 (29) STR 499 (Trib.LB)

b. CCE V/s Sachin Malhotra 2015 (3) STR 684

3.1 It is further submitted that hon'ble Allahabad High Court in the case of **Anil Kumar Agnihotri V/s CCE, 2018 (10) GSTL 288 (decided on 02.01.2018)** has distinguished above decision and held that it is rent a cab service irrespective of retaining possession and control of vehicles therefore, services rendered were taxable under rent a cab service and chargeable to tax. Tribunal followed this decision which resulted into contradictory decisions of the Tribunal. Matter was accordingly referred to the larger bench. In the case of **Shree Gayatri Tourist Bus Service V/s Commissioner of Central Excise, Vadodara reported as 2013 (29) STR 499 (Trib.LB)**. The C.A, appearing for the appellant also impressed upon that since the issue involved interpretation of provisions of the Finance Act and there were contradictory decisions therefore, suppression by the appellant with intent to evade tax is wrongly alleged. The appellant has to be given the benefits of bonafide belief. The extended period is wrongly invoked while issuing the show cause notice therefore, entire demand is liable to be set aside on the ground of limitation. Penalties imposed are also liable to be set aside for the same reason.

3.2 It is finally submitted, on behalf of appellant that, if in case the demand is held sustainable on merits as well as on limitation, then benefit of cum tax may be extended as the appellant have not collected any tax from the client and the appeal may be remanded back to departmental adjudicating authority for re-computation

of demand with respect to benefit of basic threshold exemption of Rs. 8 lacs in FY 2007-08 under notification No. 4/2007-ST dated 01.03.2007.

The order under challenge is therefore prayed to be set aside & appeal is prayed to be allowed.

4. Learned DR, while rebutting the said submissions of appellant's bonafide belief has mentioned that there was no confusion about the impugned activity post CBE & C clarificatory circular of the year 2007 from which it was clear that on the impugned activity service tax is chargeable. The said circular has been upheld and the activity in question is held to be taxable Rent-a-Cab service. Non-payment of service tax and not even getting registered is definite act of evasion of tax by suppressing relevant fact. Hence the Commissioner (A) has rightly upheld the invocation of extended period. While reiterating the findings of the impugned order, the appeal is prayed to be dismissed.

5. Having heard the rival contentions and from the documents on record including appeal memo/ grounds of appeals, the relied upon case laws, it is observed & held as follows: -

1. As per contract, between appellant and M/s Rajasthan State Road Transport Corp. (RSRTC) the appellant had to provide the bus along with the driver, and also had to maintain the bus. As per the contract, the driver had to run the bus on the route decided by the RSRTC and all the tickets of the journey in the bus used to be issued by RSRTC at its depot by the ticket collector who is an employee of RSRTC.

2. In the light of this fact the issue to be adjudicated is, Whether the contract between appellant & RSRTC can be called as agreement for provision of rendering Rent-a-Cab Service.

3. Foremost we need to look for the meaning of Rent-a-Cab Service.

4. Rent-a-Cab Scheme was formulated in 1989 in exercise of powers under Section 75(1) of Motor Vehicles Act, 1988 for regulating the business of renting of motor cabs or motorcycles to persons desirous of driving either by themselves or through drivers, motor cabs or motorcycles for their own use or for matters connected therewith. Tax on service was introduced w.e.f. 1-7-1994 so as to bring under tax net those persons rendering specific kinds of services which constituted a major portion of GDP and service provided by a Rent-a-Cab Scheme Operator in relation to renting of a cab. Further, when any person carries on continuous activity of renting of a cab, i.e. letting for the use in case of maxi cab or motor vehicle, such renting out of vehicle was made taxable as Rent-a-Cab service in turns of section 65(91) & 65(105) (0) of the finance Act 1994.

This Tribunal in case of **R.S. Travels (supra) [2008 (12) S.T.R. 27 (T)]**, has observed as under:

“Moreover, what is taxable is the activity of renting of a cab by a rent-a-cab scheme operator. Ordinary meaning of the word "to rent" is allowing the use of something one owns in exchange for payment. Therefore the test for ascertaining whether an activity is covered by the entry "rent-a-cab operator's service" is as to whether it involves giving the cab, with or without driver, to a client for a certain period of time for some consideration, which can be on per hour or per day or per month basis, with a cap on the total run of the vehicle during the period of renting, if the cab operator also provides the fuel, and during the period of renting the vehicle is at the disposal and under the control of the client, he may use it to the maximum extent permissible or even beyond on payment of extra charges or he may not use it at all. However, when a cab operator provides his cab with a driver to his client on demand for going from one place to another and charges him on

per kilometer basis or a lump sum amount based on distance as fixed with the client and control of the vehicle always remains with the cab operator/driver, he is providing transport service and this activity would be outside the purview of the entry "rent-a-cab operator's service."

5. If we otherwise go by the dictionary meaning of Rent, it means the act of payment for the use of something. Renting means a fixed periodical return, especially, an agreed sum paid at fixed intervals by a person for any use of the property or car. It is also the amount paid by a hirer to the owner for the use of the property or a car. Legislature not having made distinction between renting and hiring for levy of Service Tax, Rent-a-Cab Scheme Operator shall be liable under 65(91), 65(105) (0), Finance Act, 1994 read with section 74 and 75 of Motor Vehicles Act, 1988 - 1994 as it was held by High Court of Gujrat in case of **Commissioner of Service Tax V/s Vijay Travels reported as 2014 (36) S.T.R 513 (Guj.)**

6. This Tribunal Ahmedabad bench in case of **Green Logistics Corporation V/s CCE & ST Vadodara -I reported as 2023(8) TM 1850** while dealing with the facts of buses being given on rent/ hire, has held that there is no dispute that the issue involved interpretation of law regarding taxability of the service of hiring of buses. On this issue various cases have been decided and though finally it was held that the hiring of the buses also falls under Rent-a-Cab Service though the demand was set aside on the ground of time bar.

7. While coming to plea of limitation though appellant has taken excuse of bonafide belief but it is observed that clarity was given in the year 2007 vide circular number 4/2007 dated 13.06.2007 which did away with all ambiguities. The demand

in the present case is for the period 2007-2008 to 2009-2010/ i.e after the said circular.

8. In the present case, as already observed above the appellant had to provide the bus to RSRTC along with the driver and also had to maintain the bus, it stands clear from the contract that permission & ownership of the bus remained with the appellant and he was required to provide bus for certain duration which may be a day or a month. It is not activity of Renting-a-Cab Service as has been clarified by a larger bench of this Tribunal in the case of Gayatri Tourist Bus Service (Supra).

9. In the same decision the Larger Bench has also held that during relevant period, confusion existing about liability to Service Tax, with CESTAT decision in favor of assesses was creating bona fide belief that service was not taxable it was held that: there was no intent or motive to evade Service Tax. In the present case show cause notice (SCN) dated 18.06.2012 has proposed the demand for the period from 2007-08 to 2009-10 (up to Sep 10). Since the entire period of demand is beyond the normal period for issuance of the SCN. The demand gets hit by limitation. The order under challenge confirming the same therefore liable to be set aside.

10. Though Learned DR. has brought to notice the clarificatory circular of the year 2007 but as already observed that this Tribunal in the year 2008 has decided in favor of assesses. Hence the plea of bonafide belief cannot be negated based on said circular.

11. Since, the demand of service tax is not sustainable on merits as well as on limitation, penalties under Section 76,77 & 78 are also not sustainable.

12. In view of entire above discussion, the order under challenge (O-I-A dated 13.06.2016) is hereby set aside. Consequently, the appeal stands allowed.

[Order pronounced in the open court on **23.04.2026**]

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

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(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

