IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Service Tax Appeal No. ST/55391/2013-[DB]
[Arising out of Order-In-Appeal No. 204/BPL/2012 dated 08.10.2012 passed by Commr. (Appeals) Bhopal]

C.C.E. & S.T. - Bhopal ...Appellant

Vs.

M/s. Verma Travels …Respondent

Appearance:
Mr. Ranjan Khanna (DR) for the Appellant
None appeared for the Respondent

CORAM:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)
Hon'ble Mr. B. Ravichandran, Member (Technical)

Date of Hearing.11.04.2017
Date of Decision. 10.07.2017

Final Order No. 54839/2017

Per S.K. Mohanty:

Revenue is in appeal against the impugned order dated 08.10.2012 passed by the Ld. Commissioner (Appeals), Customs, Central Excise and Service Tax, Bhopal. Grievance of Revenue is that activity of renting a bus by the appellant falls under the taxable category of 'Tour Operator Service' and accordingly, dropping of the adjudged demand by the Ld. Commissioner (Appeals) is not in conformity with the statutory provisions.

2. Heard the Ld. DR for the Revenue. None appeared for the appellant, despite notice.

3. In this case, the Respondent had entered into agreement with various customers for arranging buses under contract carriage permit for transportation of employees and staff from their residence or a particular point to the place of their work. For undertaking such activities, the

respondent is registered with the service tax department under the taxable category of rent-a-cab service. The department has confirmed the service tax demand mainly on the ground that no documentary evidences were produced by the respondent to show that it is providing such taxable service. On appeal, the Ld. Commissioner (Appeals) has set aside the adjudged demand on the ground that the appellant had not provided the Tour Operator Service. To support the findings that the appellant did not provided the Tour Operator Service, the Ld. Commissioner (Appeals) has held that the appellant is not engaged in planning, scheduling, organizing or arranging tour and only provided transportation service to its customers namely M/s BHEL and Western Coal Fields Ltd. He has further held that the service of renting a bus for transportation of employees will be taxable under renting a cab service w.e.f. 01.06.2007. Further, he has also held that renting of bus for transportation of students and renting of ambulance are not subjected to levy of service tax under the category of rent-a-cab service.

4. On perusal of the case record, we find that for non-submission of documents regarding the nature of transportation activities provided by the respondent herein, the original authority has confirmed the demand. Revenue has also taken the stand in this appeal that no documentary evidences were produced before the Commissioner (Appeals). Thus, we are of the view that the matter should go back to the original authority for verification of the documentary evidences to be produced by the respondent to show that the services provided by the respondent are, in fact, fall under the category of renting-a-cab service and that some of the services are exempted from payment of service tax in view of use of transportation of vehicles for transporting students as well as for use as ambulance.

5. Therefore, the impugned is set aside and the appeal is allowed by way of remand to the original authority for verification of the documents to ascertain the type of transportation activities provided by the respondent to its customers and accordingly, to decide the case in line with the statutory definitions provided under the Finance Act, 1994. The appeal is disposed of in above terms.

(Pronounced in the open court on 10.07.2017)

(**B. Ravichandran**)
Member(Technical)

(**S. K. Mohanty**)
Member (Judicial)

Neha