IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/ Decision: 02.11.2017

Appeal No. ST/1143/2011-ST[SM]
[Arising out of Order-in-Appeal No. 34/BPL/2011 dated 21.02.2011 passed by the Commissioner (Appeals), Bhopal, Madhya Pradesh]

Divisional Railway Manager (Commercial) Appellant

Vs.

CCE Bhopal Respondent

Appearance
S.C. Rajpal, Advocate with Varun Rajpal - for the appellant
Shri K. Poddar, DR - for the respondent

CORAM: **Hon'ble Mr. M.V. Ravindran, Member (Judicial)**

<u>Final Order No. 57591/2017</u>

<u>Per M.V. Ravindran:</u>

1. This appeal is directed against Order-in-Appeal No. 34/2011 dated 21/02/2011.

2. After hearing both sides, I find the demand of tax is for the period 01/10/2006 to 31/01/2009 from the Divisional Railway Manager (Commercial).

3. For the amount received from bank for renting out the space for installing an ATM. The Finance Act 1994 was amended by Finance Act 2013 wherein under Section 99, any service rendered by railways prior to 01/10/2012 was granted retrospective exemption. The same issue was argued before the Division Bench of this Tribunal in Appeal No. ST/50373/2014 and the Division Bench by Final Order No. 53814/2015 dated 18/12/2015 allowed the appeal of the railways by recording as under:-

Finance Act, 1994 was amended by the Finance Act, 2013 with effect from 10.05.2013 and Section 99 introduced therein. This provision enacts that notwithstanding anything contained in Section 66 of the Act, as it stood prior to 1.7.2012 or Section 66(B) no service tax shall be levied or collected in respect of taxable service provided by the Indian Railway during the period prior to 01/10/2012.

4. In view of the foregoing, the impugned order is set aside and the appeal is allowed.

(Order dictated and Pronounced in open Court)

(M.V. Ravindran)
Member (Judicial)

Rekha