

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 02.01.2018

**S. T. Appeal No. 149 of 2008**

(Arising out of order in appeal No. 221 (RKS)ST/JPR-1/07 dated 26.12.2007 passed by the Commissioner (Appeals)-1 Central Excise, Jaipur).

M/s Stallion Rubbers Limited                      Appellant

Vs.

CCE, Jaipur-I                                              Respondent

Appearance:

Sh. Jatin Mahajan, Advocate for the appellant  
Sh. P. Juneja, AR for the Respondent

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President  
Hon'ble Mr. B. Ravichandran, Member (Technical)

Final Order No. 50019/2018

Per: **B. Ravichandran**:

The appeal is revived before the Tribunal in terms of direction of Hon'ble High Court of Rajasthan order in S.T. Appeal No. 43/2011 dated 25.10.2017. The High Court on appeal by the appellant remitted the matter back to the Tribunal to decide on merit after considering the two decisions of the Tribunal relied upon by the assessee.

2. Brief facts of the case are that the appellant are engaged in retreading of old tyres in terms of an agreement with Ministry of Defence. The Revenue sought to demand and collect service tax on such retreading activity under the category of "Maintenance and Repair service" in terms of Section

65(64) of the Finance Act, 1994. The period involved is 01.07.2003 to 16.03.2005.

3. We have heard both the sides and perused appeal record.

4. The appellant relied on the decision of the Tribunal in ***Speedways Tyres - 2009 (14) STR 339*** and ***Balwinder Singh 2010 (18) STR 70 (Tri. Del.)***. Both these decisions dealt with a tax liability of retreading of tyres under the category of “Management, Maintenance or repair” service. For the period prior to 16.06.2005, it was held that the activity of retreading of tyres restore the tyres to its functional form and the same will not come under the category of “Maintenance or Repair”. The amendment carried out in tax entry w.e.f. 16.06.2005 brought in the tax liability to the activity of “reconditioning and restoration”. The appellant are discharging service tax after such amendment in the tax entry. The Tribunal in the above decisions held that prior to amendment retreading activities cannot be taxed under “Management and Maintenance” service. Since the period and issue involved in the present appeal is also covered by the ratio laid down by the earlier decisions, we set aside the impugned order and allow the appeal.

(Dictated and pronounced in the open Court).

(Justice (Dr.) Satish Chandra)  
President

(B. Ravichandran)  
Member (Technical)

Pant

