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

COURT NO. IV

DATE OF HEARING : 02/05/2018.
DATE OF DECISION: 02/05/2018.

Service Tax Appeal No. 1470 of 2011

[Arising out of the Order-in-Appeal No. IND-417/Appeals/Indore/ 2010 dated 07/12/2010 passed by The Commissioner (Appeals), Customs, Central Excise & Service Tax, Indore.]

M/s Ashok Travels Appellant

Versus

CCE, Indore Respondent

Appearance

Shri Rohit Choudhary and Ms. Preeti Khivam, Advocates – for the appellant.

Shri G.R. Singh, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri S.K. Mohanty, Member (Judicial)**
Hon'ble Shri C.L. Mahar, Member (Technical)

Final Order No. 51702/2018 Dated : 02/05/2018

Per. S.K. Mohanty :-

Heard both sides.

2. The appellant, in this case, is a tour operator and provides the taxable service under category of tour operator service, defined under Section 65 of the Finance Act, 1994. The appellant has assailed the impugned order on the ground that the benefit

of Notification No. 15/2007-ST dated 04/04/2007, 2/04-ST dated 05/02/2004 and 8/2004-ST dated 09/07/2004 in respect of claim of abatement has not been considered by the lower authority and the service tax demand was confirmed on the total amount received by the appellant from the recipient of service. The appellant further contended that the cum-tax benefit has also not been extended by the Original Authority. The submissions of the appellant are considered by the Tribunal. Since, the above issues raised by the appellant were not considered by the Original Authority, we are of the view that the matter should go back to him for proper fact finding with regard to the entitlement of the appellant for the abatement and cum-tax benefit.

3. Therefore, after setting aside the impugned order, we remand the matter to the Original Authority for passing a fresh adjudication order, upon consideration of the submissions recorded above.

4. In the result, the appeal is allowed by way of remand.

(Order dictated and pronounced in the open court.)

(C.L. Mahar)	**(S.K. Mohanty)**
Member (Technical)	**Member (Judicial)**

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