CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH REGIONAL BENCH AT HYDERABAD
BENCH - DB
COURT – I

Appeal(s) Involved:

Sl. No.	Appeal No.	Appellant	Respondent	Impugned Order
1.	ST/1457/2012	P. Sujatha	Commissioner of Central Excise, Customs & Service Tax, Hyderabad-III	OIA No. 72/2012 (H-III) ST date 24.02.2012
2.	ST/27414/2013	S. Rajanikanth	-do-	OIA No. 38 to 86/2013 (H-III) ST dated 19.04.2013
3.	ST/27472/2013	G. Rajitha	-do-	-do-
4.	ST/27474/2013	P. Srinivas	-do-	-do-
5.	ST/27477/2013	P. Ramya	-do-	-do-
6.	ST/27478/2013	M. Vanamala	-do-	-do-
7.	ST/27481/2013	-do-	-do-	-do-
8.	ST/27483/2013	G. M. Srilekha	-do-	-do-
9.	ST/27484/2013	K. Govinda Rao	-do-	-do-
10.	ST/27487/2013	Afzal Pasha	-do-	-do-
11.	ST/27489/2013	P. Manaswini	-do-	-do-
12.	ST/27491/2013	P. Poojitha	-do-	-do-
13.	ST/27492/2013	Rehana Parveen	-do-	-do-

Appearance:

None for the Appellant.

Mr. Y. Srinivasa Murthy, A.R. for the Respondent.

CORAM:

HON'BLE Mr. M.V.RAVINDRAN, MEMBER (JUDICIAL)
HON’BLE Mr. C.J. MATHEW, MEMBER (TECHNICAL)

Date of Hearing: 23/02/2018
Date of Decision: 23/02/2018

Final Order No. A/30336-30348/2018

[Order per: Bench] .

The Stay application No. ST/1023/2012 is taken up for disposal since identical issue of taxability of the services rendered by the appellant are listed for final disposal today, the stay petition is disposed of as infructuous and appeal itself is taken up for disposal.

2. By this common order, we are disposing of the following appeals.

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7.	ST/27481/2013	-do-	-do-	-do-
8.	ST/27483/2013	G. M. Srilekha	-do-	-do-
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10.	ST/27487/2013	Afzal Pasha	-do-	-do-
11.	ST/27489/2013	P. Manaswini	-do-	-do-
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13.	ST/27492/2013	Rehana Parveen	-do-	-do-

3. Heard learned A.R. Appellants are not represented. Learned A.R. submits that identical issue came up before this Bench in respect of various other similarly placed appellants and this Bench by Final Order No. A/31193-31205/2017 dated 22/06/2017 disposed of all the appeals. He produces copy of the said order dated 22.06.2017.

4. On a careful consideration of the submissions made by the learned A.R. and on perusal of records, we find that the facts in this case are not disputed and appellants were owning private buses which were hired by Andhra Pradesh State Road Transportation Corporation (APSTRC) during the period in question for transportation of

passengers and appellants received an amount as consideration for such hiring of buses by APSRTC. Revenue is seeking to tax this amount received by the appellants along with interest and also wants to impose penalties on them. We do find that the identical issue has been decided by this Bench by Final Order dated 22.06.2017 wherein this Bench held as under:

> "4. The relevant facts that arise for consideration is that Andhra Pradesh State Road Transport Corporation (hereinafter referred to as APSRTC), A Government of Andhra Pradesh undertaking, provides road transport service for travelling of public in the state, have their own fleet of busses. As the number of busses owned by APSRTC are not sufficient to cope with ever increasing travelling needs of the passengers in the state of Andhra Pradesh, APSRTC, in order to improve the service provided by them, hired busses from private bus owners under the scheme Hire APSRTC. Under this scheme, APSRTC enters into agreement with private bus owners specifying terms and conditions for operating the busses for providing services to it. It is the case of Revenue in these appeals that the appellants herein who are the owners of the busses are liable to pay service tax under 'rent a cab' service, as they are the owners and they have to keep the vehicle in their own garage and take care of repairs and maintenance but required to operate the busses in specified routes by APSRTC, incurring all the operating cost, paying all taxes and compensation in the case of any accidents and accounting for it. Appellants contested the issue on merits and limitation before the adjudicating authority. The adjudicating authority did not agree with the contentions raised and confirmed the demands raised with interest and imposed penalties under various sections.
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> 5. Both sides agree that identical issue of hiring of busses by APSRTC for transportation of passengers was in appeal before the Bench in the case of S.K. Kareemun and others Vs. CCE, C&ST, Hyderabad-III [2016(42)S.T.R 988 (Tri.-Bang)] wherein the Bench vide Final Order No. 22119-22317/2014, dt. 05.12.2014 disposed of all the appeals holding that service tax liability arises on the individual bus owners. By holding so, the Bench upheld the tax liability with interest but set aside the penalty. It is also mentioned by Ld. DR that some of the appellants had preferred an appeal before the Apex Court against order dated 05.12.2014 and Apex court, after condoning the delay, dismissed the civil appeals filed which is reported at [2016 (44) S.T.R J 279 (S.C)].
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> 6. We have gone through the entire order of the Tribunal in the case of S.K. Kareemun and others (supra) and find that the issue involved in that case and the case in hand is the same. We also perused the order of the Apex Court and find that some of the appellants had preferred Civil appeals before the Apex court and the same were dismissed, wherein Apex court refused to interfere with the judgment and order passed by Tribunal. Accordingly, on merits, we dismiss all the

> appeals filed by the appellants herein and uphold the service tax liability and interest thereto.
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> 7. In all these appeals, we find that adjudicating authority as well as first appellate authority has imposed penalties which, in our considered view, is unwarranted considering the fact that issue was in dispute and decided by the Tribunal in number of petitions. Accordingly, the penalty imposed on all the appellants are set aside.
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> 8. All the appeals are disposed of as indicated herein above."

5. Following the above decision of the Tribunal, we hold that all the appeals are liable to be disposed of by upholding the demand of service tax liability with interest but by setting aside the penalties imposed by the Authorities. All the appeals stand disposed of as indicated hereinabove.

(Order pronounced and dictated in open court)

C.J. MATHEW	**M. V. RAVINDRAN**
MEMBER (TECHNICAL)	**MEMBER(JUDICIAL)**

Neela Reddy