CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Division Bench
Court – I

APPEAL No. ST/539/2010
(Arising out of Order-in-Appeal No. 50/2009 (H-III) ST, dated 25.09.2009 passed by CCCE&ST (Appeals-I&III), Hyderabad)

M ASHOK REDDY .. APPELLANT

Vs.

CCCE&ST, Hyderabad-III .. RESPONDENT

Appearance
Shri Joseph K. Antony, Advocate for the Appellant.

Shri Guna Ranjan, Superintendent /AR for the Respondent.

Coram:
Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)

Hon'ble Mr. P.V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 08.10.2018
Date of Decision: 08.10.2018

FINAL ORDER No. A/31319/2018

[Order per: Mr. M.V. Ravindran]

1. This appeal is directed against Order-in-Appeal No. 50/2009 (H-III) ST, dated 25.09.2009.

2. Heard both sides and perused the records.

3. On perusal of records, we find the fact that falls for consideration is whether the amounts received by the appellant during the period 2005-06 to 2006-07 for hiring out the busses to Andhra Pradesh State Road Transport Corporation (APSRTC), are taxable under 'Business Auxiliary Service' or otherwise.

4. Ld. Counsel brings to our notice that identical issue for the same period, this Bench in the case of G. Karunakar Reddy vs. CCE, C&ST, Hyderabad as reported at [2018(8)GSTL 218 (Tri.-Hyd.)] (wherein one of us Shri M.V. Ravindran was also a Member) has taken a view and produces copy of the same. On perusal of the said order, we find it so. Since a view has already been taken and it has been held that the amount so received cannot be charged under Business Auxiliary Service, which is the allegation in the show cause notice in this appeal, we hold that the impugned order is not sustainable and there is no reason for us to deviate from the view already taken.

5. Impugned order is set aside and appeal is allowed.

(Dictated and pronounced in open Court)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)

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