

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD**

Division Bench

Court - I

Appeal No. ST/279/2009

(Arising out of Order-in-Appeal No. 04/2009 (H-II) S.Tax dated 28.01.2009 passed by
CCCE & ST (Appeals-II), Hyderabad)

CCCE & ST, Hyderabad - II

..... **Appellant(s)**

Vs.

Hussain Travels

..... **Respondent(s)**

Appearance

Shri B. Guna Ranjan, Superintendent/AR for the Appellant.

None for the Respondent.

Coram:

HON'BLE Mr. M.V.Ravindran, MEMBER (JUDICIAL)

HON'BLE Mr. P. Venkata Subba Rao, MEMBER (TECHNICAL)

Date of Hearing: 02.01.2019

Date of Decision: 02.01.2019

FINAL ORDER No. A/30003/2019

[Order per: M.V.Ravindran.]

1. This appeal is directed against Order-in-Appeal No. 04/2009 (H-II) S.Tax dated 28.01.2009 filed by the revenue.
2. None appeared on behalf of the respondent despite notice.
3. Since the matter lies in a narrow compass, we take up the appeal for disposal even in the absence of any representation.
4. The issue that boils down for consideration of the Bench, is whether the first appellate authority is correct in setting aside the demands raised and confirmed in respect of the amount which has been collected as rental charges/ hire charges for the cabs hired out to various travel agencies or otherwise. It is the claim of the assessee before the lower authorities that they had discharged the service tax liability on rent-a-cab services under

which they had hired out the vehicles to individual customers but in respect of the services rendered by travel agencies, they have not paid the tax as respective travel agencies have paid. From the entire proceedings, we find that this assertion is maintained by the assessee before the lower authorities but there is nothing on record to show that the travel agencies discharged the service tax on the amounts collected by them from their customers by using respondent's vehicles. In order to verify this fact whether the service tax liability has been discharged by the travel agencies who hired the vehicles of the respondent, the matter needs factual appreciation by the adjudicating authority. To decide this point only we set aside the order and remit the matter back to the adjudicating authority to reconsider the issue afresh, after following the principles of natural justice.

5. Appeal is disposed of by way of remand to the adjudicating authority.

(Dictated and pronounced in the open Court)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

Veda

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)