

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD**

Division Bench – Court No. – I

Service Tax Appeal No. 25581 of 2013

(Arising out of Order-in-Appeal No.221 to 259/2012 (H-III) ST dt.31.10.2012 passed by
Commissioner of Customs, Central Excise & Service Tax (Appeals-III), Hyderabad)

G. Chandana

W/o Srinivas, H.No.2-10-88/2A, Ganesh Street,
Jangaon Manda, Telangana – 506 201

.....Appellant

VERSUS

**Commissioner of Central Tax
Secunderabad - GST**

Kendriya Shulk Bhavan, LB Stadium Road,
Basheerbagh, Hyderabad – 500 004

.....Respondent

Appearance

None for the Appellant.

Shri V. Srikanth Rao, AR for the Respondent.

Coram:

HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)

HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30541/2025

Date of Hearing: 03.12.2025

Date of Decision: 03.12.2025

[Order per: ANGAD PRASAD]

The appellant, G. Chandana, has come in appeal against OIA dt.31.10.2012, whereby the Commissioner (Appeals) has confirmed the demand along with interest.

2. The brief facts of the case are that the owner of the bus bearing Reg. No.AP36X4609 of Andhra Pradesh State Road Transport Corporation (APSRTC), which is an organisation, owned by Government of Andhra Pradesh (AP), providing road transport services for travelling of public of AP with a fleet of buses owned by them. Since the number of buses owned by APSRTC is not sufficient to cope with the ever increasing travelling needs of bus passengers of AP, it has turned to private bus owners under a scheme to hire the buses to reduce the shortage in their fleet to certain extent and improve the services provided by them. The appellant was thereafter issued two SCNs dt.09.12.2010 & 14.10.2011 on the ground that the activity of letting out of the buses to APSRTC for their use by the appellants are liable for payment of service tax under the category of 'Rent-a-Cab service'. The

appellant had replied to SCNs and contested the demand on the following grounds:

- a) The activity of handing over the bus to APSRTC involves transfer of control and possession of bus and hence will attract VAT and not service tax. Even the tender documents of APSRTC speak of VAT.
- b) Even otherwise, the Tribunals have held in several cases that when payments are received on per-kilometer basis, then the activity will not be covered under Rent-a-Cab service.
- c) Bus is granted 'Stage Carrier Permit' by RTA, under MV Act, under Tour Operator Services category and the tour operator does not cover a Bus, which has been granted a Stage Carrier Permit. In other words, the intention of the Government is to provide the exemption to buses, which are used for public transport.
- d) Demand is hit by limitation.

3. On adjudication, the lower authority confirmed the demand vide OIO dt.30.03.2012. Aggrieved by the same, the appellant had filed an appeal before the Commissioner (Appeals), who vide the impugned order, dismissed the appeal and confirmed the OIO. The Appellant has come against the said OIA in the present appeal (impugned order).

4. Learned AR for the department submits that the issue is squarely covered by the decision of coordinate bench of this Tribunal at Bangalore in the case of S.K. Kareemun Vs CCCE & ST, Hyderabad-III [2016 (42) STR 988 (Tri-Bang)]. He also submits that M. Venkata Reddy had filed an appeal before the Hon'ble Supreme Court against the said Order of Tribunal Bangalore in Civil Appeal No.6619/2015, wherein, the Hon'ble Supreme Court decided the case against the appellant and held that service tax is leviable. In the case of SK Kareemun (supra), learned AR has relied on the clarification issued by the Board on 02.08.2007, which is cited below for ease of reference.

5.8.2 The learned AR also relied upon the clarification issued by the Board on 2-8-2007 under Letter F. No. 137/155/2007-CX.4, dated 2-8-2007 wherein it was clarified as follows:

"2. The Himachal Road Transport Corporation (HRTC) hires private buses for their operation. The payment is made on a fixed rate per kilometer of travel. The expenditure towards fuel, maintenance and driver, etc., is borne by the private bus operator. HRTC collects fare

(3)

from passengers deploying its conductor. Thus the activity of private operators amounts to renting of buses to HRTC.

3. W.e.f. 1-6-2007, the scope of term 'cab' has been expanded to include within its scope the 'motor vehicle capable of carrying more than 12 passengers for hire'. Therefore, w.e.f. 1-6-2007, service tax would be applicable on renting of buses under the category of 'rent-a-cab service'. As regards the earlier period (prior to 1-6-2007), mere renting of bus in this manner was not taxable under business auxiliary service or any other taxable services as existed during that period."

This is a clarification issued when the amendments were made and therefore this is an interpretation of the Government when the tax was introduced. It can be considered as contemporanea exposito and hence has persuasive value. It can be seen that our view is also same.

5. Therefore, in view of the cited case laws and the submissions of the learned AR, we find that the appeal is liable to be dismissed and is accordingly dismissed.

(Dictated and pronounced in the Open Court)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)