

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
EASTERN ZONAL BENCH : KOLKATA  
REGIONAL BENCH – COURT NO. 1  
Service Tax Appeal No. 76800 of 2016**

(Arising out of Order-in-Appeal No.41/Pat/S.Tax/Appeal/2016-17 dated 12.07.2016  
passed by Commissioner of Customs, Central Excise & Service Tax, Patna)

**Ideal Dealers Pvt. Ltd.** : **Appellant**  
NH-28, Bhagwanpur Chowk, Muzaffarpur.

**VERSUS**

**Commissioner of Customs, Central Excise & Service Tax, Patna** : **Respondent**  
2<sup>nd</sup> Floor, Central Revenue Building, Birchand Patel Path,  
Patna-800001.

**APPEARANCE:**

Shri Tarun Chatterjee & Shri Raju Mondal, Advocates for the Appellant

Shri A.Mukherjee, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)**  
**HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 77959/ 2025**

DATE OF HEARING :11.12.2025

DATE OF DECISION:11.12.2025

**Order : [Per Shri Ashok Jindal]**

The appellant is in appeal against the impugned order.

2. The facts of the case are that appellant is a dealer of TATA motor and authorized dealer and appellant buy and sale on principle to principle basis. The appellant also provide after sale services. The appellant is registered under Business Auxilliary Service and filing their ST3 returns after payment of Service Tax.

3. On the basis of CERA audit a Show Cause Notice dated 08.01.2014 was issued to the appellant for the period of 2009-10 to 2013-14 to demand Service Tax from the appellant under Business

Auxilliary Service. The matter was adjudicated. Demand of Service Tax was confirmed.

4. Against the said order appellant is before us.

5. The Ld. Counsel for the appellant submits that from the Show Cause Notice it is evident that demand of Service Tax on service charges and valuation charges is made without classification of service. As there is no classification of service in that circumstances, demand of Service Tax is not sustainable against the appellant as held by the Hon'ble Apex Court affirming the order of this Tribunal in the case of ESS GEE Real Estate Developers Pvt. Ltd. Versus Commissioner of C.Ex., Jaipur, 2020 (34) G.S.T.L. 486 (Tri-Del). Therefore, he prayed that impugned order is to be set aside.

6. Heard the parties. Considered the submissions.

7. We have gone through the Show Cause Notice. In the Show Cause Notice there is no particular category has been mentioned under which clause of Business Auxilliary Service demand of Service Tax sought to be confirmed against the appellant. In that circumstances relying on the decision of ESS GEE Real Estate Developers Pvt. Ltd. (Supra), we hold that demand of Service Tax is not sustainable which has been affirmed by the Hon'ble Apex Court.

8. In view of this we set aside the impugned

order and allow the appeal with consequential relief,  
if any.

(Operative part of the order was pronounced in open court)

**(ASHOK JINDAL)**  
MEMBER (JUDICIAL)

**(K. ANPAZHAKAN)**  
MEMBER (TECHNICAL)

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