Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO. 01

Service Tax Appeal No. 10111 of 2020
[Arising out of Order in Appeal No. VAD-EXCUS-001-APP-485-2019-20 dated 20.12.2019 passed by the Commissioner (Appeals), CGST & Central Excise, Vadodara)

UNIVERSAL DISTRIBUTORS **.....Appellant**
(Prop. Marvel Indenting Pvt Ltd.) Universal House,
50, Kunj Society, Alkapuri, Vadodara, Gujarat

VERSUS

C.C.E & S.T-VADODARA-I **.....Respondent**
1st Floor, Central Excise Building,
Race Course circle, Vadodara, Gujarat-3920007

APPEARANCE:
Shri. Dhaval K Shah, Advocate for the Appellant
Shri. M.P Solaki, Assistant Commissioner (AR) for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

Final Order No. 10748/2026

DATE OF HEARING:20.07.2026
DATE OF DECISION: 15.09.2026

SATENDRA VIKRAM SINGH

1. M/s. Universal Distributors, Vadodara (Appellant) were audited by the Central Excise Officers who observed that the appellant was recovering rent on the trucks fitted with Hydrogen Cylinder Skid which is leviable to service tax under the category "supply of tangible goods service". The MOU between the appellant and recipient M/s. Raj & Company reads as under:-

> *"For 1486 and 1415 NM^3 capacity truck at present rent is Rs. 2500/- per trip and for 1801 NM^3 rent is Rs.4000/- per trip. Skid rent for all the truck is Rs. 4.00 per NM^3 up to 6 trip and Rs. 4.50 per NM^3 for 7 trips."*

1.1 The department was of the view that the appellant has transferred possession and actual control of the trucks to the recipient and therefore, the income accrued to them is leviable to service tax under the taxable category of "supply of tangible goods service". The revenue also observed that the appellant has neither obtained registration with service tax department, nor paid the service tax and filed ST-3 returns for the said category of service. Therefore, appellant was issued four show cause notices for the period from 16.05.2008 to September, 2016 demanding service tax from them under the "supply of tangible goods service" category. The present show cause notice is issued for demand of service tax for the period October 2016 to June 2017 under the same category, amounting to Rs. 8,44,162/- along with interest under Section 75 and imposition of penalty under Section 76 & 77(1)(a) of the Finance Act, 1994 and late fee under Rule 7C of the Service Tax Rules, 1994 read with Section 70 of the Finance Act, 1994.

1.2 The present show cause notice was adjudicated by the Assistant Commissioner who vide order dated 26.09.2019 confirmed the demand of service tax of Rs. 8,44,162/-along with appropriate interest under Section 75 and imposed penalty of Rs. 84,416/- under Section 76, penalty of Rs 10,000/- under Section 77(1)(a) and a penalty of Rs. 20,000/- under Section 70 of the Finance Act, 1994 read with Rule 7C of the Service Tax Rules, 1994.

1.3 Aggrieved with the above order, the appellant filed appeal before the Learned Commissioner (Appeals) who vide impugned order dated 28th December, 2019 rejected their appeal on the ground that the services provided by them to M/s. Raj & Company are leviable to service tax under Supply of Tangible Goods Service as transactions did not involve transfer of right to use the truck, duly installed with Hydrogen Cylinder skid in favour of lessee and physical possession of the truck with Hydrogen Cylinder Skid is to be handed over to appellant after termination of MOU. She upheld the order of the Adjudicating Authority. Hence, the present appeal before this Tribunal.

2. In their appeal, the appellant took the following grounds and prayed for setting aside the impugned order.

- The appellant is renting their vehicles duly installed with Hydrogen Cylinder Skid under MOU to M/s Raj & Company and receiving rent for the said vehicles.
- The said MOU clearly reveals that entire Vehicle, duly installed with Cylinder Skid, has been handed over to the customer and "during entire renting period, vehicle is being used and maintained by the customers at their own responsibility and labour. During the renting period, all expenditure in connection with the said vehicles are being borne by M/s Raj & Company.
- Section 65 (105)(zzzzj) of the Finance Act, 1994 defines taxable service as under:

> *zzzzj-taxable service "means any service provided or to be provided to any person, by any other person, in relation to supply of tangible goods including machinery, equipment and appliances for use, without transferring right of possession and effective control of such machinery, equipment and appliances.*

- Renting of tangible goods is covered as service under the said provisions when effective control and right of possession upon the tangible goods remains with the owner of the goods. In their case, MOU clearly reveals that they had transferred right of possession and effective control over the vehicle duly installed with Cylinder Skid to the customer who is required to use, run and maintain the said vehicles with their own staff, driver, cleaner, diesel, tyres, battery along with all the responsibility. In view of this, their activities do not satisfy the condition of the service and hence, impugned Order-In-Appeal confirming service tax demand on them, is liable to be set aside.
- Their case is fully covered by the decision of CESTAT Mumbai in the case of KINETIC COMMUNICATIONS LTD VS. C.C.E., PUNE-I reported at 2017-TIOL-762-CESTAT-MUM.

3. During arguments, Learned Advocate mentioned that the department had earlier issued four show causes notices to the appellant involving same issue which were challenged before the Tribunal. These matters were decided by the Tribunal vide Order No. A/12258-12259/2023 dated 11.10.2023, Order No. A/10874/2024 dated 15.04.2024 and order A/11909/2024 dated 23.08.2024 by way of remand with certain observations, to the Adjudicating Authority. Subsequent to these remand orders, the Adjudicating Authority decided the matter vide order dated 25.09.2025 wherein, he dropped the demand of service raised against the noticee. Learned Advocate further mentions that the order of the Adjudicating Authority has not been challenged by the department and therefore, the present matter which is before the Tribunal should also be dropped. He reiterated his reliance on the decision of CESTAT Mumbai in the case of KINETIC COMMUNICATIONS LTD VS. C.C.E. PUNE-I (cited supra) and pleaded that the appeal may be allowed by setting aside the impugned order of the Learned Commissioner.

4. Arguing on behalf of revenue, Learned AR reiterated the finding of the lower authority. Regarding query by the Bench whether the Adjudicating Authority has passed order in compliance to CESTAT's remand directions,

Learned AR submitted a letter dated 04.05.2026 mentioning that remand orders have been passed by the Additional Commissioner vide order dated 25.09.2025 and the said orders have also been accepted by the department on monetary ground.

5. We have heard both the sides.

5.1 We find that in respect of prior period show cause notices, this Tribunal had vide Final order No. Order No. A/12258-12259/2023 dated 11.10.2023, Order No. A/10874/2024 dated 15.04.2024 and order A/11909/2024 dated 23.08.2024 had remanded the matter to the Adjudicating Authority with certain directions/observations. In it's orders, the Tribunal had examined whether the activity performed by the appellant by way of renting of vehicles fitted with Cylinder Skid would be covered under supply of tangible goods service or under GTA service. After going through various submissions, this Tribunal had observed in Para 4 of their order dated 11.10.2023 that the appellant is charging on per trip basis for providing the vehicle to Raj & Company and therefore, the activity prima facie would be of transportation service. The relevant Para 4 and 4.1 is reproduced below:-

> *"4. We have carefully considered the submission made by both sides and perused the records. We find that as per the fact which is not in dispute between the appellant and the revenue that the charges for providing the vehicle to Raj & Company is on per trip basis. This shows that the transaction is not of renting of vehicle as in case of renting the fixed amount is charged on monthly basis or lump sum, however, if the charge is on the basis of per trip that prima facie shows the activity is of transportation.*
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> *4.1 However, the aspect that whether the activity falls under GTA or otherwise and consequently the liability of service tax can be passed on the appellant was not examined for the obvious reason that neither the department has contended nor the appellant has raised the issue but on the basis of fact it prima facie appears that the activity can be classified under GTA. Accordingly, we are of the view that matter needs to be reconsidered from the aspect of GTA and all other issues are kept open."*

5.2 We therefore, find that this Tribunal has already considered the issue and found that the activity of renting of vehicle fitted with Hydrogen Cylinder Skid on per trip basis, is not classifiable under supply of tangible goods services. The matter was remanded to the Adjudicating Authority to examine if activity would fall within the ambit of the GTA service for the purposes of levy of service tax. This aspect was examined by the Additional Commissioner in its order dated 25.09.2025 and he found that the appellant is also not liable to pay service tax under GTA service and accordingly, dropped the demand. In Para 28 of the remand order, he held as under :-

> "28. In the light of the above factual matrix and legal ratio, I maintain that the assessee did not fit in the criteria of being a Goods Transport Agency. Obviously, they have earlier been held by the Hon'ble Tribunal to be not the provider of Tangible Goods Service. They can best be classified as a provider of means of transport to the GTA, which was kept exempted from service tax vide Serial No. 22 of the notifications referred supra."

6. Since, the issue is no more res-integra and therefore, following the earlier decision of this Tribunal, we set aside the service tax demand confirmed vide impugned order dated 20.12.2019 on the appellant under the category of supply of tangible goods service and allow the appeal

7. The Appeal allowed.

(Pronounced in the open court 15.09.2026)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Prachi