

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

REGIONAL BENCH - COURT NO. 3

SERVICE TAX Appeal No. 463 OF 2011

[Arising out of Order-in-Appeal No OIA-125/2011/STC/KANPAZHAKAN/COMMR-A-/AHD dated 25.05.2011 passed by Commissioner (Appeal) of Central Excise & ST, Ahmedabad]

M/s. Mahan Travels

A-426/427, 4th Floor, Sakar-vii,
Nehru Bridge Corner, Ashram Road,
AHMEDABAD GUJARAT

.... Appellant

VERSUS

Commissioner of Central Excise & ST, Ahmedabad.... Respondent

7 th Floor, Central Excise Bhawan, Nr. Polytechnic
CENTRAL EXCISE BHAVAN, AMBAWADI,
AHMEDABAD, GUJARAT - 380015

APPEARANCE :

Advocate for the Appellant
for the Respondent

**CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. RAJU, MEMBER (TECHNICAL)**

FINAL ORDER NO. A/10847 / 2019

DATE OF HEARING : 08.05.2019
DATE OF DECISION: 08.05.2019

RAMESH NAIR

The brief facts of the case are that there is demand of service tax under Business Auxiliary Service. The appellant are agent for booking Air Tickets however, they are not registered with IATA. They purchase tickets from IATA agent and in turn sell it to the travelers. The IATA in turn gives discount to the appellant which is their income and on which the demand was raised under Business Auxiliary Service. There is a small demand in respect of Hotel booking and Rent-e-cab and all the demands were raised under Business Auxiliary Service.

2. Shri Aditya Tripathi, Ld. Counsel appearing on behalf of the appellant submits that as regards the demand relating to booking of Air Tickets, the appellant are purchasing the tickets on principal to principal basis from IATA agent and thereafter, they are selling on principal to principal basis to the travelers. In this transaction, the appellant is receiving discount from the IATA agent which is a trade discount and hence, no service is involved. Accordingly, the discount amount is not liable to service tax. As regards the hotel booking and rent-e-cab service, he submits that once the demand relating to booking of tickets is set-aside, remaining amount is within the threshold limit of exemption under Notification No. 6/2005-ST dated 01.03.2005. He placed reliance on the decision of this Tribunal in the case of *Amar Travels India vs. CST, Delhi – 2018 (10) GSTL 77 (Tri. Del.)*.

3. Shri S.N. Gohil, Ld. Superintendent (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. Heard both sides and perused the record. We find that lower authorities in the present case confirmed the demand on the basis that the appellant is receiving commission since the tickets are directly booked by IATA agent to travelers. Therefore, the discount received by the appellant is nothing but commission. We do not agree with the lower authorities for the reason that on perusal of the invoices between the IATA agent and the appellant and appellant and the travelers, it is clear that the appellant have purchased the tickets even though it is booked in the name of travelers and thereafter they are selling those tickets to the travelers. Therefore, during these transactions, the income generated at the end of the appellant is nothing but trade discount/trade margin. In this transaction of sell and purchase, trade margin does not amount to any service hence the same

cannot be taxed under Finance Act, 1994. Accordingly, the demand raised under Business Auxiliary Service is not sustainable and the same is set-aside.

5. Ld. Counsel submits that remaining amount is well within the threshold limit of Rs. 8 lakh, in terms of Notification No. 6/2005-ST. If the amount is within threshold limit, the demand will not sustain on account exemption limit subject to verification by the Adjudicating Authority. Accordingly, the impugned order is modified to the above extent and the appeal is allowed in the above terms.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)