

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH – COURT NO. III**

SERVICE TAX APPEAL NO. 50841 of 2021

[Arising out of Order-in-Original No.JOD-EXCUS-000-COM-0031-20-21 dated 31.03.2021 passed by the Commissioner, CGST and Central Excise, Jodhpur]

M/s.Audi Motors Pvt. Ltd.

...APPELLANT

C-1-4, Samta Nagar, Sriganganagar Road,
NH-15, Bikaner-334 002 (Rajasthan).

Versus

**Commissioner of CGST and
Central Excise Commissionerate, Jodhpur,**
G-105, New Jodhpur Industrial Area,
Jodhpur (Rajasthan) 342 003.

...RESPONDENT

AND

SERVICE TAX APPEAL NO. 50842 of 2021

[Arising out of Order-in-Original No.JOD-EXCUS-000-COM-0031-20-21 dated 31.03.2021 passed by the Commissioner, CGST and Central Excise, Jodhpur]

**Shri Sawai Singh Purohit,
Accountant & Authorised Signatory,
M/s. Audit Motors Pvt. Ltd.,**

...APPELLANT

C-1-4, Samta Nagar, Sriganganagar Road,
NH-15, Bikaner-334 002 (Rajasthan).

Versus

**Commissioner of CGST and
Central Excise Commissionerate, Jodhpur,**
G-105, New Jodhpur Industrial Area,
Jodhpur (Rajasthan) 342 003.

...RESPONDENT

APPEARANCE:

Ms. J. Kainaath, Advocate for the appellant

Ms. Jaya Kumari, Authorised Representative for the Revenue.

CORAM:

HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)

HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER NOs.51773-51774/2025

**DATE OF HEARING: 24.10.2025
DATE OF DECISION:19.11.2025**

BINU TAMTA:

1. Challenge in the present appeals is to the impugned Order-in-Original ¹ confirming the demand of service tax amounting to Rs.2,21,87,867/- on the main appellant² under Section 73(1) of the Finance Act, 1994³ read with Section 75 of the said Act along with interest and penalty of equivalent amount and further imposing penalty of Rs.1,00,000/- on Shri Sawai Singh Purohit, Accountant of the appellant under Section 78 of the Act.

2. The appellant is an authorized dealer of M/s.Maruti Suzuki India Ltd. ⁴ on principal to principal basis and also service provider of maintenance and repair of Light Motor Vehicles/Passenger cars etc. MSIL was giving incentive and trade discount to the appellants on sale target achievements, such as : (i) Wholesale target achievement, (ii) Accessories sales targets and (iii) Spare parts sales targets.

3. On the basis of investigation and the documents submitted by the appellants and the statement given by the authorized representative of the appellant, a show cause notice dated 19.11.2020 was issued for proposing demand of service tax of Rs.2,21,87,867/- along with interest and penalties for the period April, 2015 to June, 2017. It is alleged that the discounts/incentives received under various schemes falls under the definition of "Service" under Section 65B(44) of the Act. It was also alleged that the appellants suppressed the facts. Appellants filed their defence reply to the show cause notice and denied the allegations. However, the Adjudicating Authority vide impugned order-in-original dated 31.03.2021 did not agree with their submissions and confirmed the demand of service tax of Rs.2,21,87,867/- along with interest and penalties. A penalty of Rs. 1,00,000/- was also imposed upon Shri

¹ No.JOD-EXCUS-000-COM-0031-20-21 dated 31.03.2021

² M/s. Audi Motors Pvt. Ltd.

³ The Act

⁴ MSIL

Sawai Singh Purohit, Accountant of the appellant company. Hence the present appeals.

4. Heard Ms. J. Kainaat, learned counsel for the appellant and Ms. Jaya Kumari, Authorised Representative for the Department and perused the case records.

5. We find that the issue, which arises for our consideration, is whether service tax is leviable on incentives/discount, reimbursement extended by MSIL to the appellant.

6. The issue is no longer *res integra* and as referred to by the learned Counsel for the appellant, the same has been considered and decided in favour of the assessee in the following cases :

- (i) ***Rohan Motors Limited v. Commissioner of Central Excise***⁵
- (ii) ***T.V. Sundram Iyengar & Sons Pvt. Ltd. v. Commissioner of CGST & C. Ex., Madurai***⁶
- (iii) ***B.M. Autolink v. Commissioner of Central Excise***⁷
- (iv) ***Roshan Motors Pvt. Ltd. v. Commissioner of Central Excise***⁸
- (v) ***Anand Motor Agencies Limited v. Commissioner of Customs***⁹
- (vi) ***Kafila Hospitality and Travels Pvt. Ltd. Vs. CST***¹⁰

7. That all the above cases relates to dealership agreement between the manufacturer of motor vehicles (MUL, MSIL ,TML) with their dealers for sale purchase of vehicles. In terms of the agreement it has been noticed that the dealer works on principal to principal basis and not as an agent of the manufacturer. The agreement itself provides for certain sales

⁵ 2021 (45) GSTL 315 (Tri.-Del.)

⁶ 2021 (55) GSTL 144 (Mad.)

⁷ 2022 –VIL-900-CESTAT-AHM-ST

⁸ 2022-VIL-654-CESTAT-DEL-ST

⁹ 2022-VIL-116-CESTAT-ALH-ST

¹⁰ 2021 (47) GSTL 140 (Tri.-LB)

promotion activities which are for the mutual benefit of the business of the manufacturer as well as the dealer.

8. The Larger Bench of this Tribunal in the case of **Kafila Hospitality and Travels Pvt. Ltd.** (supra) dealt with the issue whether service tax can be levied under the category of "Business Auxiliary Service" on target based incentives paid to the travel agents by the Airlines as they were promoting and marketing the business of the Airlines. The Tribunal took the view that it is not a case where the air travel agent is promoting the service of the Airlines rather by sale of airlines ticket he was ensuring the promotion of its own business even though this may lead to incidental promotion of the business of the Airlines. On the issue, whether "incentive" paid for achieving target are taxable, the Tribunal analysed the scope of the term "incentives" that they are generally given to encourage performance of the party.

9. As a matter of judicial discipline the aforesaid decisions are binding on us and in light thereof we find that the present case is squarely covered by the law laid down in those judgments. We have examined the dealership agreement entered between MSIL and the appellant and we find that MSIL is engaged in manufacturing, marketing and selling of motor vehicles and the appellant purchases the vehicles from the manufacturer as their authorised dealer. The relationship between the appellant and MSIL is only of buyer and seller and sale-purchase have taken place on principal to principal basis.

10. We also find that the activity undertaken by the appellant is for the sale and purchase of the vehicle and the incentives are in the nature of trade discounts. The incentives, therefore form part of the sale price of the vehicles and have no correlation with the services to be rendered by the appellant. That in terms of the dealership agreement, the appellant

purchases the vehicles from MSIL and sells the same to its end customers. The activity of promoting the sale is with respect to the vehicles owned by the appellant which incidentally is in interest of both the parties. Reliance is placed on the observations referred above in the case of **Kafila Hospitality and Travels Pvt. Ltd.** (supra).

11. We also find that the appellant is engaged in the onward sale of vehicles which involves merely transfer of property in goods which is excluded from the definition of "service". Section 66D of the Finance Act, 1994 contains the negative list of services under various clauses and clause (e) provides for "trading of goods". On this ground also we find that incentives which are part of sale activity are not exigible to service tax.

12. We are, therefore, of the considered view that the amount of incentives and discounts cannot be treated as consideration for any service and therefore no Service Tax is leviable thereon. Having decided the issue on merits in favour of the assessee, it is no longer required to go into the question of limitation raised by the appellant.

13. The impugned order is, therefore, set aside and the appeals, are allowed accordingly.

[Order pronounced on 19th November, 2025]

(BINU TAMTA)
Member (Judicial)

(HEMAMBIKA R. PRIYA)
Member (Technical)

Ckp.

