

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.**

PRINCIPAL BENCH - COURT NO.III

Service Tax Appeal No.52244 of 2019

[Arising out of Order-in-Appeal No.196(SM)ST/JPR/2019 dated 24.05.2019 passed by the Commissioner (Appeals), Central Excise and CGST, Jaipur]

M/s. K.P. Automotives Pvt. Ltd.,

E—198, RIICO Industrial Area,
Mansarovar, Jaipur.

Appellant

VERSUS

Commissioner,

Central Excise and CGST,
NCR Building, Statute Circle, C-Scheme,
Jaipur-302 005
Rajasthan.

Respondent

APPEARANCE:

Shri Alok Kumar Kothari, Advocate for the appellant.

Shri Shashank Yadav, Authorised Representative for the respondent.

CORAM:

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

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

FINAL ORDER NO. 51000 /2025

DATE OF HEARING:03.07.2025

DATE OF DECISION: 11.07.2025

BINU TAMTA:

1. The issue in the present appeal is whether service tax is payable on 'free services' provided by the appellant during the warranty period for sale of cars. The appellant is an authorised dealer of Maruti Udyog Ltd. and are providing services at authorised service stations.

2. Show cause notice dated October 13, 2017 was issued to the appellant on the allegation that in respect of the “free services” provided by the assessee to the customers during the warranty period, they had already received warranty labour charges from Maruti Udhyog Ltd. at the time of purchase of the vehicle, and therefore, for the purpose of assessment of service tax, these free services do not remain free. Since the charges for the “free services” during the warranty period have been realised by the assessee, they are required to pay service tax on the value of such charges. On adjudication, demand in the show cause notice was confirmed along with interest and penalty under Section 76 of the Finance Act, 1994. The Commissioner (Appeals) by the impugned order rejected the appeal holding that the appellant liable to pay service tax on the services provided to the customers as the amount against the said taxable value has been received by the appellant in the margin amount at the time of selling the vehicle and prior to the performance of the said free services. Hence, the present appeal before this Tribunal.

3. The issue is no longer *res integra* and has been decided in the case of the appellant vide Final Order No.370-372/2008 dated 21.11.2008 and subsequently, vide Final Order NO.50945-50948 /2023 dated 07.07.2023 ¹.

4. Learned Authorised Representative for the Department has fairly conceded that the issue is covered in favour of the appellant.

5. We find that apart from the orders in the case of the appellant, as referred to above, the Division Bench of the Tribunal has made similar

¹ 2003 (9) TMI 1253 –CESTAT-New Delhi

observations in the case of Hindustan Auto House Pvt. Ltd. Vs. CCE, Jaipur² and the observations made thereunder were as under:-

"6. We have carefully considered the submissions. The 'free services' said to have been rendered by the appellant to the purchaser of the vehicle is not really free. The value of such services are already included in the price of the vehicle paid by the customers. The value has also been included for the purpose of paying excise duty and sales tax. It is also admitted that when the services are rendered by the appellant to the purchaser of vehicles, no payment or service charges are paid by the said customers. We have not been shown any evidence to show that the vehicle manufacturer has specifically reimbursed amounts for the said free services. The learned Authorised Representative submits that there is no actual reimbursement by Hyundai Motors towards service charges and he relies on the certificate of vehicle manufacturer in this regard. The learned DR is not able to produce any evidence contrary to this. Show cause notice has also gone on the presumption that one of the methods of re-imbursement is to include the said service charges in dealer's margin. In other words, we find that in this case, the service provider has not received any service charge from the service recipient. We have also not been shown that the vehicle manufacturers have specifically reimbursed any amounts towards the said services. In these circumstances, payment of service tax and imposition of penalty under various sections are not sustainable."

6. Following the aforesaid decisions, we hold that no service tax is chargeable on the warranty labour charges for providing free after-sale service. Hence, the impugned order is unsustainable. The appeal is, accordingly allowed.

[Order pronounced on 11th July 2025]

(BINU TAMTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Ckp.

² 2009 (13) STR 190 (Tri-Delhi)

