**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**

**NEW DELHI**

**PRINCIPAL BENCH – COURT NO. III**

**SERVICE TAX APPEAL NO. 51349 OF 2019**

[Arising out of Order-in-Appeal No. 175/ST/DLH/2018 dated 31.12.2018 passed by the Commissioner(Appeal-I), Central Tax, Goods and Service Tax and Central Excise, Delhi. ]

**SURINDER AGGARWAL** **...APPELLANT**
(Now New Royal Motor)
24, Masjid Lane, Jangpura,
Bhopal, New Delhi-110 014.

Versus

**COMMISSIONER (APPEALS-I)**
**CENTRAL GST, CENTRAL EXCISE**
**AND CUSTOMS,** **...RESPONDENT**
ROOM NO. 134, CENTRAL REVENUE BUILDING,
I.P ESATE, EAST DELHI- 110 002

**APPEARANCE:**
Mr. Ashish Vaish, Advocate for the appellant
Ms. Jaya Kumari, Authorised Representative for the respondent

**CORAM:**
**HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)**
**HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 51249/2025**

**Date of hearing: 05.08.2025**
**Date of decision:01.09.2025**

**BINU TAMTA:**

1. The issue for consideration is whether the supply of cranes by the appellant to Delhi Traffic Police is covered under the 'supply of tangible goods' and is liable for service tax. The submission of the

learned Counsel for the appellant is that the issue is no longer *res-integra* and has been decided by the Tribunal in the case of **Deputy Commissioner of Police, Jodhpur Vs. Commissioner of Custom, Excise and Service Tax, Jaipur-II[1],** where considering the definition of "person" as provided in the General Clauses Act, 1897 it was held that the activity of the State police represented by the Superintendent of Police of various districts deploying security personnel to various organizations and for character Verification of candidates selected for various jobs on payment of charges, was not leviable to Service Tax under the category of Security Agency service under Section 64 (94) of the Finance Act, 1994. It was further held that the definition of "person" introduced in Section 65B (37) of the Finance Act, 1994 to include Government, local authorities, etc, with effect from 01.07.2012 was not applicable prior to the said date. Reliance was placed on the decision on the judgement of the Constitution Bench of the Supreme Court in **West Bengal Vs Union of India[2],** holding that even the extended meaning does not include the State. The appeal filed against the order of the Tribunal was rejected by the **Supreme Court[3]**. The order of the Tribunal has been subsequently followed by the Delhi Bench in **Deputy Inspector**

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[1] **2017(48) S.T.R 275(Tri. Del.)**
[2] **AIR1963 SC 124**
[3] **2018-11GSTL 133(SC)**

**General of Police Vs. Commissioner of Customs, Excise, Bhopal[4].**

2. Following the aforesaid decision, we are of the view that service tax on "supply of tangible goods services" levied with effect from 16.05.2008 under Section 65(105) (zzzzj), which defines the taxable service to be provided to any person by any other person cannot implicate the service as rendered by the appellant to the Delhi Traffic Police which does not fall in the category of "person". The necessary implication is that a service to fall under the head of "supply of tangible goods service" is that the service should be provided to any person and in the present case Delhi Traffic Police is not a person in view of the definition of the term "person" under the General Clauses Act as the period covered is 2009-10 to 2011-12, i.e., prior to the introduction of the definition of the term "person" in Section 65B (37).

3. The Commissioner(Appeals) in the impugned order has relied on the decision of **Secretary to Government, Deptt. of Agriculture, Kerala Vs. U.O.I.[5]**, however the said decision relates to the period post 01.07.2012 when the definition of "person" was

[4] **2017(3) G.S.T.L. 159 (Tri. Del.)**
[5] **2015 (40) STR 438 (Ker.)**

provided in the Finance Act itself and hence the said cases are not applicable in the present case.

4. Since the issue on merits stands decided in favour of the appellant, it is not necessary to record any findings on the issue of penalty or the extended period of limitation. The impugned order deserves to be set aside and is accordingly quashed. Consequently, the appeal stands allowed.

[Order pronounced on 1st September, 2025 ]

**(BINU TAMTA)**
**MEMBER (JUDICIAL)**

**(P. V. SUBBA RAO)**
**MEMBER (TECHNICAL)**

Ckp/RR