

# IMPORTANT GST UPDATES



Issued in case of Jivan Jyot Motors Pvt Limited by CESTAT Ahmedabad  
Final Order No. 11565/2023 | Date: 24-07-2023

## Ruling

### No Service Tax Leviable on Sale of Vehicle Subjected to VAT: CESTAT

#### Observations & Findings

The case involves appellant Jivan Jyot Motors Pvt Limited who is an automobile dealer, purchasing vehicles and selling them to individual customers. During the sale, they include handling and forwarding charges in the sale bill, and VAT is paid on the total invoice value, including these charges. The Department argues that the handling and forwarding charges collected by the appellant should be subject to service tax under Business Support Service/Business Auxiliary Service.

The appellant argues that the show cause notice is confusing as it does not clearly specify the category under which the charges fall and that since the handling and forwarding charges are part of the total sale value on which VAT is already paid, service tax cannot be charged on the same activity.

Upon careful consideration and without delving into the classification issue, CESTAT finds that there is no dispute that the handling and forwarding charges are part of the sale price. The court observes that VAT was calculated on the total value, which includes the handling and forwarding charges.

It emphasizes that the sale value is composed of different elements and cannot be divided to argue that some parts represent the sale of goods and some represent services. The court cites a recent Supreme Court judgment of CST vs. UFO Moviez India Limited - 2022-VIL-07-SC-ST, which establishes that when VAT is paid on the sale of goods, service tax cannot be claimed on any part of that value.

The court further cites several tribunal judgments supporting the principle that if VAT has been paid on the sale of goods, service tax cannot be demanded even if separate bills were issued for components used in repairs and maintenance, on which VAT was also paid.

Based on the legal principles and precedents, the court sets aside the impugned order, concluding that the demand for service tax is not sustainable.