

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I
APPEAL No. ST/70300/2016-CU[DB]**

(Arising out of Order-in-Appeal No.233/ST/ALLD/2015 dated 14/12/2015 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Allahabad)

M/s Cawnpore's AA Travels Wing (P) Ltd.

Appellant

Vs.

Commissioner of Customs, Central Excise

& Service Tax, Lucknow

Respondent

Appearance:

Request for Adjournment

Shri Sandeep Kumar Singh (Dy. Commr.) AR

for Appellant

for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 27/11/2018

Date of Decision : 27/11/2018

FINAL ORDER NO`. - **72689/2018**

Per: Anil G. Shakkarwar

After rejecting the request for adjournment, we have heard the learned A.R. for Revenue and have gone through the record of the case. From the record we notice that the allegations were made in the show cause notice on the basis of scrutiny of balance sheet. It appeared to Revenue that miscellaneous income amounting to Rs.18 lakhs (approx.) shown in the books of account by the appellant for the period 2008-09 to 2009-10 was required to be added to the taxable value for the services covered under Air Travel, Air Tour Operator Service. On going

through the proceedings, we note that Revenue could not establish that the said amount collected was for providing any specific service. We also note that just because some income is reflected in the books of account, it cannot be concluded that the said amount was received for providing services. Revenue is required to examine the reasons for which such income was received by the appellant, identify the services for which the said amount was received and examined other aspects such as abatement and exemption and then arrive at a decision as to whether the service tax worked out on the said receipts is liable to be demanded or not. No such exercise was carried out and the show cause notice was issued under presumption that the miscellaneous income was for providing taxable services. We do not find the said show cause notice to be sustainable.

2. We, therefore, set aside the impugned order and allow the appeal.

(Dictated & Pronounced in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Lks