CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Service Tax Appeal No.70901 of 2016

(Arising out of Order-in-Appeal No.401-ST/APPL-ALLD/LKO/2016 dated 15/06/2016 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Lucknow)

M/s Akbar Travels of India (P) Ltd., ...Appellant

(S-205/51-6B, Nepali Kothi, Varuna Bridge,

Varanasi-221002)

VERSUS

The Commissioner, Central Excise

& Service Tax, Allahabad .....Respondent

(Commissioner, Central Excise

& Service Tax, Allahabad)

APPEARANCE:

Absent for Appellant
Shri Santosh Kumar Agarwal, Authorized Representative for Respondent

CORAM :
Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)
Hon'ble Mr. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 71907 / 2019

DATE OF HEARING: 02 September, 2019
DATE OF PRONOUNCEMENT: 06 November, 2019

ARCHANA WADHWA

On matter being called neither anybody appeared nor in their any adjournment request. As a short issue covered by the precedent decision of the Tribunal in the same appellant's case is involved we proceed to decide the appeal after hearing the learned Authorized Representative appearing for the Revenue.

2. On perusal of records, we find that the appellant was registered under the category of 'Air Travel Agent'. Air Travel

Agent is defined as a person engaged in providing any service connected with the booking of passage for travel by air. The appellant discharged his service tax liability as provided under Sub-rule 7 of Rule 6 of Service Tax Rules, 1994. The appellant received some incentives from the Airlines. Considering the said incentive to be consideration required to be included in the total consideration received for the purpose of assessment, the appellant was issued with a show cause notice dated 10 September, 2012 which culminated into the passing of impugned Order-in-Appeal.

3. The short issue involved in the present appeal is whether the service provider who has discharged his service tax liability as provided under Sub-rule 7 of Rule 6 of Service Tax Rules, 1994 is required to pay service tax on the various charges, which the Revenue seeks to include in the cost of the services. We note that in the same assessee's case Tribunal vide its Final Order No.70165/2018 has observed that once service tax stands discharged in terms of Rule 6(7) of Service Tax Rules, 1994 on the basic fair value of the Air Ticket at rates specified in the said rules, no further demand can be raised against the service provider. As such, by following the said decision, we set aside the impugned order and allow the appeal with consequential relief to the appellants.

(Order Pronounced in the open Court on 06 November, 2019)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

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