CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 52255 of 2015

[Arising out of Order-in-Appeal No. 52/ST/Appeal-II/SM/GGN/2014-15 dated 20.03.2015 passed by the Commissioner (Appeals), Service Tax, Gurgaon, Haryana]

M/s Austrian Airlines **......Appellant**
Office No.9, New Visitor Lounge,
Departure Level, Terminal-2, IGI
Airport, New Delhi-110037

VERSUS

Commissioner of Service Tax, **......Respondent**
Delhi-III
Plot No.36-37, Sector-32, Gurugram,
Haryana-122001

APPEARANCE:

Ms. Priyanka Rathi and Ms. Shubangi Gupta, Advocates for the Appellant

Shri Yashpal Singh, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO.61461/2025

DATE OF HEARING: 25.09.2025
DATE OF DECISION: 06.10.2025

P. ANJANI KUMAR:

The appellants, M/s Austrian airlines, are registered with the Service Tax Department and were paying service tax on their services. The dispute in the present appeals is with reference to valuation of the taxable service rendered by them. The Revenue, after scrutinizing the documents submitted by the appellant, entertained a view that the value for taxable service has not been properly calculated by the appellant. It was alleged that they have not included certain considerations, though part of air ticket charges, claiming that the said portion relates to Passenger Service Fee (PSF) and airport taxes collected under an obligation with Airport Authority in India and other authorities, who are controlling the air travel in other countries. Proceedings were initiated against the appellant by issue of show cause notice dated 15-3-2012, demanding Service Tax of Rs. 19,52,197, for the period October 2010 to September 2011; the Original Authority, vide OIO dated 30-04-2014, confirmed service tax liability of Rs. 17,69,898, with equal penalty, against the appellant. On appeal, vide the impugned order, the Commissioner (Appeals) upheld the original orders. Hence, the appeal No ST/52255/2015.

2. Ms. Priyana Rathi, Learned Counsel, for the appellants, submits that the issue is no longer Res Integra having been decided by the Delhi Bench of the tribunal in the appellants' own case in their favour 2017 (7) G.S.T.L. 379 (Tri. - Del.). He submits further that this Bench has decided an identical issue in favour of M/s Lufthansa German Airlines (2024) 21 CNTAX 328(Tri-Chan).

3. Learned Authorized representative reiterates the findings of the impugned orders.

4. Heard both sides and perused the records of the case. We find that the principal bench of this Tribunal has decided the case in respect of the appellants themselves. Principal Bench Observed as follows.

> **6.** The issue is relating to tax liability of certain part of considerations received by the appellant while selling tickets to the passenger for air travel by the airlines of the appellant company. The claim of the appellant is that the amount collected, as PSF and airport taxes are not towards considerations of air travel and hence are not liable to be taxed. First of all, we have considered the various relied upon cases as decided by the Tribunal on the same issue. We note that the Tribunal in the appellant's own case as well as in other cases mentioned hereinabove have decided the principle that PSF and other airport taxes are not to form part of assessable value to tax under the category of "Air Travel Service". There can be no difference on this account on the principle that such exclusion, if it is shown, in terms of documents and applicable statutory provisions are to be allowed.
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> **7.** We have perused the various documents submitted by the appellant in support of their defence in the present appeals. The appellants pleaded that the Passenger Service Fee (PSF) is a statutory levy in terms of Section 22 of the Airport of India Act, 1994. We have perused the said decision. The same provides for Authority to charge fee, rent, etc. The Authority may with the previous approval of the Central Government charge fee or rent for providing various services in the airport. These services may be in the nature of landing, parking of aircrafts, air flight services, amenities given to the passengers, etc. In effect, these charges are with reference to facilities provided by the Airport Authority to the operators of Airlines in connection with their operation or to the passenger, which in any case, is also relatable to their travel. In other words, the persons availing the facilities in airports are the passengers, who are in the process of either inward or outward air travel. The appellants are issuing tickets for such air travel, which in any case, cannot be performed unless the passengers enter and passes through the airports.
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> **8.** The Airport Authority fixed certain charges as passenger service fee. This is apparently for the services rendered to the passengers in the airport. The

> passenger pay such charges as part of the ticket. The appellants pleads that they are not rendering any service towards such fee.
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> **9.** During the course of argument, the appellants have, *inter alia,* submitted documents like invoices issued to the appellant by the Airport Authority, certificates issued by the Airport Authority to the effect that service tax on PSF collected by the appellant stands paid to the Government by the Airport Authority, challans issued from Overseas Government Department evidencing payment of airport taxes to these departments. We note that admittedly, service tax on such passenger service fee has been claimed to have been duly remitted by the Airport Authority, which was collected from the passengers by the appellant. Verification of these details can be made by the jurisdictional officers. We are in agreement with the appellant that addition of PSF in the taxable value at the hands of the appellant may result in double taxation. Admittedly, the PSF is forming part of airport service in terms of Section 65(105)(zzm). The very same PSF cannot be subjected to service tax under transport of passenger service.

5. In view of the above, we find that the issue is settled in favour of the appellants. We also take note of the fact that we have decided a case of M/s Lufthansa German Airlines (supra), involving identical facts, in favour of the appellants. Thus, we find that the issue is no longer res integra. Accordingly, the appeal is allowed.

(Order pronounced in the open court on 06/10/2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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