IN THE CUSPTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision:14.12.2016

Service Tax Misc.No.50324 & 50327/2015-(DB)
In Appeal No.ST/3663/2012

[Arising out of Order-in-Appeal No.228/ST/DLH/2012 dated 12.09.2012 passed by the Commissioner (Appeals), Service Tax, Central Excise, Delhi-I]

M/s.Austrian Airlines Appellants

Vs.

CST, Delhi Respondent

Appearance:

Rep. by Shri Tarun Jain, Advocate for the appellant.
Rep. by Shri Ranjan Khanna, DR for the respondent.

Coram: Hon'ble Shri S. K. Mohanty, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No.56410/2016

Per S.K. Mohanty:

The mis. Applications filed by the appellant for consideration of additional documents came up for hearing before the Tribunal on 24.10.2016 and the Tribunal vide order dated 24.10.2016 directed that the misc. applications would be heard along with appeal on 14.12.2016.

2. During the course of hearing, ld. Counsel submits that the appellant is not pressing for misc application and the appellant would like to be heard for final

hearing of the appeal. Ld. AR has no objection to the prayer made by the appellant. Thus, with the consent of both the sides, we take up the appeal for final disposal.

3. The dispute involved in this case relates to payment of service tax on Passenger Service Fee (PSF) and Airport Taxes. We find that in the case of the appellant itself, this Tribunal vide Final Order No.ST/A/53049/2016 dated 11.08.2016 has held that the Airport Tax and PSF collected by the airlines on behalf of the airports and paid to them are not includible in the assessable value for the purpose of levy of service tax. The relevant portion of the said order is extracted below:-

> "Both sides agree that the issue stands covered by the Tribunal in the case of **M/s.Continental Airlines Inc. Vs. CST, New Delhi** reported in **2015-TIOL-1481-CESTAT-DEL.** Its stand held that the airport taxes as also the passenger service fee collected by the airlines on behalf of the airports and paid to them are not includible in the assessable value for the purpose of levy of service tax. By following the said decision of the Tribunal, the service tax demand against the present assessee for the earlier period raised on the same grounds was set aside by the Tribunal in the case reported as **Lufthansa German Airlines Vs.CST (Adjn.), New Delhi** reported as **2016-VIL-274-CESTAT-DEL-ST."**

4. In view of the above, we do not find any merit in the impugned order and allow the appeal in favour of the appellant. The misc. applications are also disposed of.

[order dictated and pronounced in the open court]

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

Ckp.