IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –III

Service Tax Appeal No.ST/58887/2013-ST [DB]

[Arising out of Order-in-Original No.16/GB/2013 dated 13.02.2013 passed by the Commissioner of Service Tax, Delhi]

Austrian Airlines …Appellant

Vs.

Commissioner, Service Tax, Delhi … Respondent

Present for the Appellant : Mr.Priyanka Rathi, Advocate
Present for the Respondent: Mr.Sanjay Jain, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. B.RAVICHANDRAN, MEMBER (TECHNICAL)

Date of Hearing/Decision: 20.01.2017

FINAL ORDER NO. __50514/2017__

PER: B.RAVICHANDRAN

The appellant is against the order dated 13.02.2013 of Commissioner of Service Tax, New Delhi. The appellants were engaged in providing taxable service and were registered with the service tax Department. The dispute in the present case relates to their tax liability under the category of "online data base access or retrieval service" in terms of Section 65 (75) of the Fiancé Act, 1994. The service tax liability is mainly on CRS/GDS service received by the head-office of the appellant situated in Austria.

2. During the course of hearing, the ld. Counsel for the appellant submitted that the Tribunal in respect of appellant's own case, vide Final Order No.53163/2014 dated 08.08.2014 held that the appellant is not liable to service tax in respect of services received by their head office located outside India and as such the demands were held to be not sustainable. The present demand deals with identical set of facts for subsequent period. Accordingly, following the ratio of the Final Order cited above, she prays that the demand may be set aside.

3. Heard both the sides and perused the appeal records. Admittedly, CRS/GDS services were received and paid for by the head office of the appellant situated outside India Examining the provisions of Section 66A (2), the Tribunal in appellant's own case held that the appellant shall not be liable to service tax in respect of such services received and paid for by their head office located outside India. Following the said decision, we find the impugned order is not sustainable and accordingly, the same is set aside and the appeal is allowed.

[Dictated and pronounced in the open Court)

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita