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/60529/2013-ST [DB]

[Arising out of Order-in-Appeal No.183/ST/DLH/2013 dated 31.07.2013 passed by the Commissioner (Appeals), Central Excise, New Delhi]

M/s.JDM Travel Services Pvt. Ltd. …Appellant

Vs.

C.S.T., Delhi-I … Respondent

Present for the Appellant : Mr.Vinay Makkan, C.A.
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: 09/06/2017

FINAL ORDER NO. 53970/2017

PER: B.RAVICHANDRAN

The appeal is against order dated 31.07.2013 of Commissioner (Appeals), Delhi. The appellants are engaged in the business of air travel agency. They are registered with the Department and are paying service tax and filing returns as per law. The present dispute is with reference to short payment of service tax during the period October 2004 to

March, 2005. Based on the scrutiny of S.T. – 3 Returns, the Revenue entertained a view that the appellants did not calculate the tax liability and discharge correct liability. Accordingly, a demand for Rs.41,172/- was issued to the appellant. The case was adjudicated by the Original Authority confirming the Service Tax liability alongwith penalties of equivalent amount under Section 76 and Rs.1000 under Section 77 of the Finance Act, 1994.

2. We have heard both the sides and perused the appeal record. The ld. Counsel for the appellant submitted that they are acting as a sub-agent and buy tickets form IATA Agent to be supplied to passengers. Whatever service tax charged by the main agent is paid by them and they availed credit of the same to discharge their liability. The tickets are both for domestic as well as international air-travel. Accordingly, the rate of Service Tax applicable is either 0.5 % or 1 %, based on the gross value. The Department considered the value as attributable to international travel only. Accordingly, the tax liability was calculated. The appellants are contesting the same on the ground that there are tickets for domestic travel, which will suffer lesser rate of tax. We also perused some of the sample invoices submitted by the ld. Counsel. It is also seen that the lower authorities declined to accept the documents submitted by the appellant on the ground that these documents are in the name of 'Travel Shack'. The ld.

Counsel submitted that 'travel shack' is a trade name commonly used whereas the appellant's company name is JDM Travel Services Pvt. Ltd. This is clear from the stamp affixed in their ST – 3 Return filed with the Department and also from various invoice / documents.

3. Having considered the factual submissions made by the appellant, we find that the impugned order is not sustainable as the appellants brought out the facts regarding the consideration received both for domestic as well as international travel and having discharged service tax while buying the tickets from the main agent were entitled for the credit of the same. Accordingly, we set aside the impugned order and allow the appeal.

[Dictated and pronounced in the open Court]

(B. RAVICHANDRAN) **MEMBER (TECHNICAL)**	**(S.K. MOHANTY)** **MEMBER (JUDICIAL)**

Anita