IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I

Service Tax Appeal No. 50339, 50661 of 2017
Service Tax Misc. Application No. 50944-50945 of 2017

[Arising out of Order-in-Appeal No. 148 – 149 ST/Appl-I/2016-17/15173 dated 10.11.2016 passed by the Commissioner of Central Excise (Appeals I), New Delhi]

M/s. Doon's Caterers **Appellant**
M/s. Kwality Caterers

Vs.

Commissioner of service Tax **Respondent**
New Delhi

Appearance:
Shri Pawan Arora & Ms. Shifali Chauhan, Advocates for the Appellants
Shri R P Juneja & Shri A K Singh, ARs for the Respondent

CORAM:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. B Ravichandran, Member (Technical)

Date of Hearing/ Decision: 28.12.2017

FINAL ORDER NO. 58707- 58709 /2017

Per: B Ravichandran:

Misc. applications are allowed for early hearing. With the consent of both the parties, we take up the appeal itself for final hearing.

2. Learned counsel mentions that the dispute in both the appeals is with reference to Service Tax liability for supply of bed roll of passengers and maintenance of coaches and toilets of the Railways. The tax liability was confirmed on such activities under the category of Business Support services. Contesting the impugned orders dated 31.1.17 and 10.11.16, Learned counsel submits that the dispute has already been resolved by the Tribunal in identical set of facts in the case of ***R C Goel vs. CCE New Delhi [Final Order No. 55661 - 55665/17 dated 2.8.2017***.

3. We have heard both the sides and pursued the appeal records . We note that same dispute came before the Tribunal in above order where the Tribunal has observed that-

> *"9. The adjudicating authority has classified the services rendered by the appellant under the above by taking the view that said services are provided by the appellant in support to the business entrusted to IRCTC by the Indian Railways. However, the appellant has argued that said services will not be covered by said section 65 (zzzq) since it is not in the nature of support services to IRCTC in relation to managing distribution and logistics, customer relationship management services or infrastructure support services. They have further claimed that the supply of bed rolls can be brought under the services of supply of passenger goods under section 65(105)(zzzj). Since both the show cause notices as well as impugned orders classified the services under business support services, they have argued that the demand merits to be set aside.*

> *10. On carefully considering the submissions made by both the sides and on perusal of the records, we are of the view that the supply of bed rolls as well as cleaning of coaches and toilets of trains are not covered within the meaning of support services of business or commerce. The services have been rendered by the appellant to the passengers on behalf of IRCTC / Indian railways. We are of the view that such services are more appropriately classifiable under business auxiliary services under the category of "Customer care services provided on behalf of the client under section 65(11) of the Finance Act 1994". Since the show cause notice as well as the impugned orders have classified the services under business support services, these orders cannot be sustained and are required to be set aside. "*

4. Following the above ratio which is on the same dispute, we find that impugned order are not sustainable. Accordingly, the same are set aside.

5. In the result, Appeals are allowed.

(Dictated and pronounced in the open Court)

(B Ravichandaran) **Member (Technical)**	**(Justice (Dr.) Satish Chandra)** **President**

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