Oberoi Flight Services Vs. C.S.T.

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SooperKanoon Citation : sooperkanoon.com/45071

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-13-2007

Reported in : (2007)10STJ41CESTATNew(Delhi)

Judge : S Kang, Vice, N T C.N.B.

Appellant : Oberoi Flight Services

Respondent : C.S.T.

Judgement :

2. The stay application is in respect of service tax demand of about Rs. 38 lakhs and equal amount of penalty imposed under the impugned order. The tax demand is on the ground that appellant is rendering "Airport service" by keeping the "Executive Lounge & Snack Bar" at transit area in Terminal-II of Delhi Airport.

3. The services authorized in the Executive Lounge by the Airport Authority of India are the following: The Licensee will manage the Executive Lounge & Snack Bar counter and provide the facilities of: g) Communication facility including STD/ISD/Fax - Video Conferencing etc.

It is by treating the above service as Airport service that the tax demand has been made.

4. It will be seen from para 4 above that the Executive Lounge provides several services like Cable TV, Food and Telecom services in the executive lounge. These services are not airport services, as they have nothing to do with the arrival or

departure of aircraft, which is the substance of airport service. It is also to be seen that some of these services like Cable TV, Phone etc. are separately leviable to service tax under respective headings. The mere fact that a service is rendered within airport area does not give that service the character of airport service. To explain, Cable TV service, Telecom service, Money change service etc. rendered in the lounge, would not lose their character and become airport service, merely because of the place where they are rendered. In this view of the matter, we are of the opinion that the finding that the appellant is rendering airport service is not viable.

The appellant is in hospitality business and the running of the executive lounge to provide facilities to passengers is also part of that (hospitality) service and not airport service.

5. In view of what is stated above, we are of the opinion that the tax demand is not viable. Accordingly, stay application is allowed and recovery stayed till the disposal of the appeal.