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Outbound Tour Services to Indian Tourists Taxable Prior to Negative List Regime

The CESTAT, Bangalore in the case of ***Chariot World Tours Ltd. v. Commissioner of Service Tax, Bangalore [Final Order Nos. 20488-20489/2026, order dated April 13, 2026]*** held that outbound international tour packages provided by an Indian tour operator to Indian tourists during the period April 2010 to March 2012 were liable to service tax under the category of “Tour Operator Service”. However, since the dispute involved interpretation of law and conflicting judicial views which were ultimately referred to a Larger Bench, the demand was restricted to the normal period of limitation and penalties were set aside.

Facts:

M/s. Chariot World Tours Ltd. (**“the Petitioner”**) was engaged in providing taxable services under the category of “Tour Operator Service”. During the period April 2010 to March 2012, it organized and conducted international package tours for Indian tourists but did not discharge service tax on such outbound tour packages.

The Commissioner of Service Tax, Bangalore (**“the Respondent”**) issued two show cause notices dated June 04, 2012 and October 18, 2012 demanding service tax of Rs. 50,04,332/- and Rs. 59,73,706/- respectively for the periods April 2010–March 2011 and April 2011–March 2012. The demands were confirmed along with interest and penalties through Orders-in-Original Nos. 21/2014 and 22/2014 dated March 06, 2014.

The Petitioner contended that although its activities fell within the definition of “Tour Operator Service” under Section 65(105)(n) of the Finance Act, 1994, the services were rendered in relation to foreign tours and therefore qualified as “export of service” under Rule 3(1)(ii) of the Export of Service Rules, 2005 because the tours were substantially performed outside India. The requirement of receipt of consideration in convertible foreign exchange applied only to Rule 3(2) and not to services covered under Rule 3(1)(ii). It was argued that insisting upon

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receipt of foreign currency from Indian tourists would lead to an absurd result as no foreign exchange would accrue to the country.

The Respondent contended that the Petitioner had provided taxable “Tour Operator Service” and that outbound tours undertaken by Indian tourists could not be treated as export merely because the tourists travelled outside India. It was argued that the decision in Cox & Kings had been referred to a Larger Bench, which held that for the pre-negative list period, where both the service provider and service recipient were in India, the services were taxable. The Respondent further contended that extended limitation was invocable because the Petitioner had suppressed the correct value of taxable services in its ST-3 returns.

Aggrieved by the confirmation of service tax, interest and penalties, the Petitioner filed the present appeals before the CESTAT challenging the taxability of outbound tour services and the invocation of the extended period of limitation.

Issue:

Whether outbound international tour packages provided by an Indian tour operator to Indian tourists during the period prior to the negative list regime were liable to service tax under the category of “Tour Operator Service”, and whether extended limitation and penalties could be sustained?

Held:

The CESTAT in **Final Order Nos. 20488-20489/2026** held as under:

- Observed that, the limited issue was whether outbound international tours provided by the Petitioner to Indian tourists were taxable under Section 65(105)(n) of the Finance Act, 1994.

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- Noted that, the Petitioner's principal argument was founded on the Division Bench decision in Cox & Kings India Ltd., which had subsequently been disagreed with by another Division Bench and referred to a Larger Bench for authoritative determination.
- Observed that, the Larger Bench in Cox & Kings held that for the period prior to the introduction of the negative list regime, there was no requirement to determine "taxable territory"; so long as both the service provider and service recipient were located in India, the services were taxable.
- Noted that, the Larger Bench specifically held that disputes concerning the period from April 1, 2005 to March 31, 2011 did not require consideration of "taxable territory" and that taxability had to be determined in accordance with Sections 65, 66 and 67 of the Finance Act, 1994.
- Observed that, applying the Larger Bench ruling, outbound tours provided by the Petitioner to Indian tourists during April 2010 to March 2012 were taxable under the category of "Tour Operator Service". Judgments of Benches of lesser strength contrary to the Larger Bench ruling could not be treated as binding precedents.
- Noted that, the dispute involved interpretation of law and conflicting judicial views which had necessitated reference to a Larger Bench. Therefore, suppression of facts could not be alleged for invoking the extended period of limitation.
- Observed that, the demand could therefore survive only for the normal period of limitation and penalties were not imposable.
- Held that, the impugned orders were modified by confirming the service tax demand along with interest only for the normal period of limitation and setting aside the penalties. The appeals were disposed of accordingly.

Our Comments:

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The Tribunal's decision is entirely founded upon the Larger Bench ruling in ***Cox & Kings Ltd. v. CST, New Delhi [Interim Order No. 104/2023 (CESTAT-LB)]***. The Larger Bench examined the evolution of the definition of “Tour Operator” and held that the earlier Division Bench judgment in ***Cox & Kings India Ltd. v. CST, New Delhi [2014 (35) STR 817 (Tri.-Del.)]*** could not govern all outbound tour disputes because it was rendered on a restricted interpretation of the statutory definition prevailing at that time. For the pre-negative list period, taxability depended upon the statutory charging provisions and not on the concept of “taxable territory”, which became relevant only after July 2012. Consequently, where both service provider and recipient were located in India, service tax liability could arise notwithstanding performance of portions of the activity outside India. The present decision follows that reasoning without deviation.

Relevant Provisions:

Section 65(105)(n) of the Finance Act, 1994

“Taxable service” means any service provided or to be provided

(n) to any person, by a tour operator, in relation to a tour.”

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