

**GST/Service Tax: Where assessee was providing training courses in aviation, hospitality and travel management and Tribunal held that assessee was exempted from payment of service tax under Notification No. 24/2004-ST, dated 10-9-2004, SC dismissed appeal filed against judgment of Tribunal**

**GST/Service Tax: Where assessee, a training institution, received recognition from a foreign entity but no representational right was granted to it by foreign entity and Tribunal held that assessee was not liable to pay service tax on consideration paid to such foreign entity under category of 'franchise services', SC dismissed appeal filed against judgment of Tribunal**

**GST/Service Tax : Where assessee, a training institution, had franchisees and from which it was receiving reimbursement for expenditure incurred by it towards text books, study materials, etc. and Tribunal held that such receipts were not includible in value of taxable service, appeal filed against impugned judgment was dismissed by SC**

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**[2018] 96 taxmann.com 224 (SC)**

**SUPREME COURT OF INDIA**

**Commissioner of Central Excise, Delhi-II**

**v.**

**Frankfinn Aviation Service (P.) Ltd.\***

**RANJAN GOGOI AND MRS. R. BANUMATHI, JJ.**

**CIVIL APPEAL DIARY NO. 21341 OF 2018†**

**JULY 23, 2018**

**Classification of services - Section [65\(27\)](#) of the Finance Act, 1994 - Commercial training or coaching services (OR) - Assessee was providing training courses in aviation, hospitality and travel management - Assessee did not pay service tax on ground that said service fell under head 'vocation training course' which was exempted from service tax under Notification No. 24/2004-ST, dated 10-9-2004 - Tribunal held that under said notification it was not necessary to have both criteria of employment and self-employment to be fulfilled; mere ability to seek employment after completion of training course in terms of Explanation provided in said notification itself was sufficient for claiming exemption by assessee - Against impugned judgment, revenue filed appeal before Supreme Court - Whether there was no merit in revenue's appeal and it required to be dismissed - Held, yes [Para 3] [In favour of assessee]**

**Classification of services - Section [65\(47\)](#) of the Finance Act, 1994 - Franchise service - Assessee was providing training courses in aviation, hospitality and travel management - UK entity Edexcel provided international recognition of courses offered by assessee for which certain standards were to be met - On completion of training, a Diploma Certificate was issued to participant by Edexcel - However, under agreement assessee was not granted representational right of Edexcel - Tribunal held that assessee was not liable to pay service tax on payments made by it to Edexcel under category of 'franchise service' - Against judgment of Tribunal, revenue filed appeal before Supreme Court -**

Whether there was no merit in revenue's appeal and it required to be dismissed - Held, yes [Para 3] [In favour of assessee]

Section [15](#) of the Central Goods and Services Tax Act, 2017/Section [66](#) of the Finance Act, 1994 read with [rule 5](#) of the Service Tax (Determination of Value) Rules, 2006 - Supply, taxable supply, value of - Assessee a training institution, had various franchisees - As per Franchisee agreement, franchisees reimbursed assessee for expenditure incurred by it towards text books, study materials, cost of advertisement and publicity campaigns, etc. - Tribunal held that reimbursable expenses were not includible in value of taxable service - It further held that assessee was not liable to pay service tax on reimbursement of various expenses incurred by it towards franchisees - Against impugned judgment of Tribunal, revenue filed appeal before Supreme Court - Whether there was no merit in revenue's appeal and it required to be dismissed - Held, yes [Para 3] [In favour of assessee]

#### CASE REVIEW

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*Frankfinn Aviation Services (P.) Ltd. v. CST* [\[2017\] 82 taxmann.com 405 \(New Delhi - CESTAT\)](#) (para 3) *Affirmed.*

**Maninder Singh**, ASG., **Nalin Kohli**, Adv., **Rajiv Nanda**, Adv., **Ankit Roy**, Adv., **Indrajeet Singh**, Adv. and **B. Krishna Prasad**, AOR *for the Petitioner.*

#### ORDER

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1. Delay condoned.
2. Heard the learned counsel for the appellant and perused the relevant material.
3. We find no merit in these appeals. Admission is refused and the civil appeals are, accordingly, dismissed.

#### ORDER

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1. Delay condoned.
2. Application for exemption from filing certified copy of the impugned order is allowed.
3. The appeals are dismissed in terms of the signed order.

sk jain

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*\*In favour of assessee.*

*†Appeal arising out of order of Tribunal in Frankfinn Aviation Service (P.) Ltd. v. CST* [\[2017\] 82 taxmann.com 405 \(New Delhi - CESTAT\)](#).