

## **Jetlite gets Rs 256 Crore Service Tax relief**

**AIT News Network**

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Principal Bench of CESTAT comprising Justice RMS Khandeparkar President and Rakesh Kumar Member(Technical) pronounced final order on 20th December 2010 in case of Appeal No.ST/776/2009 filed by Jetlite (India) Ltd.(Formerly known as Sahara Airlines Limited) and held that the demand of Service tax amounting to Rs.129 Crore and Penalty of Rs.129 Crore is not sustainable on Jetlite as the activity of using Logo of Sahara on Airtickets does not fall within the ambit and scope of "Business Auxiliary Service"

Original Authority noticed that there was allegation that M/s. SAL was promoting real estate and housing business and area operation M/s. Sahara India Commercial Corporation Limited formerly known as Sahara India Housing Limited) and such service was "Business Auxiliary Services".

Show cause notice dated 28.10.2008 was issued to bring the appellant to the fold of levy of service tax under Finance Act, 1994 in respect of "Business Auxiliary Services provided" for the period July 2003 to January 2007. Adjudicating authority found that SICCL had launched various projects of housing and real estate. Air travel passengers of the appellant Airlines were targeted as potential customers in terms of agreement dated 30.03.1995 entered into between SAL and SICCL to promote business of the later by the appellant and project information was brought to the notice of such customers through printing in air tickets of M/s. SAL. Necessary consideration per passenger ticket was paid to the appellant Airlines for such purpose by SICCL.

An agreement dated 30.3.1995 was entered into between M/s. SAL & M/s. SICCL. The said agreement revealed that M/s. SAL was under an obligation to promote the real estate and housing projects and area of operation of M/s. SICCL for which a consideration per passenger ticket was payable to M/s. SAL.

The relevant part of the communication dated 30.3.1995 which was the bone of contention was as below:

**DATED 30.03.1995**  
**"No. SIHL/MARC/DIR/95/"**

M/S. Sahara India Airlines Limited, Sahara India Bhawan,  
1, Kapoorthala Complex, Lucknow  
Dear Sirs,

**Sub : Our Publicity through your Airlines.**

We refer to the discussions of the undersigned had with your Director, Shri Subrata Roy Sahara, on the above matter in several meetings. What we want your AirLines to do, is to give extensive publicity to our activities in order to promote our business and area of operations. We confirm that the following arrangements have been arrived at with you by us.

(1) All your Aircrafts will have exactly the same logo and in the same colour as used by us and the same will be prominently displayed outside of both sides of each and every aircraft in the manner that the same is clearly visible to general public at least from the distance of 200 metres.

(2) You will use our logo and its colour scheme on all your tickets. Boarding Passes, Baggage tags, publicity materials and advertisements in newspapers hoardings, etc.

(3) Our brochures (to be supplied by us) will have to be distributed with each ticket issued by you.

(4) You have agreed to make other arrangements required from our side to popularise our business as may be intimated by us to you after mutual consent.

(5) Since the publicity is mainly, directly linked with the tickets issued by you and / or passenger to be carried by in your aircrafts, we shall pay you Rs. 1075/- per passenger on long sector and Rs. 400/- per passenger on short sector carried by you.

(6) It is also further agreed that to popularise our scheme and business activities and for that purposes to increase exposure to the general public, you will allow on trunk routes a minimum discount of Rs. 500/- to passenger on every trip till such time arrangements as above remain in force.

(7) That the above arrangements shall remain in force for a period of one year with effect from 1st April, 1995, or renewed further.

(8) You will allow at all reasonable time our representatives to verify that you are complying with the above arrangements, on board of the Aircraft as well as station offices and accounts department (s).

You shall allow our representatives complimentary tickets free of charge to enable them to make such verification(s).

Please return a copy of this letter duly signed by you as a token of your acceptance of the above arrangements and all terms and conditions together with a certified copy of resolution of Board of Directors of your Company approving such arrangements, terms and conditions.

We look forward to have association with your Company for mutual benefits."

While granting Stay in this matter; CESTAT directed Jetlite to make pre-deposit of Rs. 100 crore vide Stay Order dated 25.6.2010. Jetlite appealed to High Court and then to Supreme Court which reduced the amount of pre-deposit to Rs 60 Crore. As a result the Airlines will get the refund of pre-deposited amount.

Since the amount involved is huge; the Revenue is expected to file an Appeal against CESTAT Order.