

Shri Satnam Singh Oberoi And Anr. Vs Commissioner of Service Tax

Court: Customs, Excise And Service Tax Appellate, New Delhi

Date of Decision: Dec. 11, 2024

Hon'ble Judges: Dilip Gupta, President (J); P. V. Subba Rao, Member (T)

Bench: Division Bench

Advocate: Gaurav Gupta, Jaya Kumari

Final Decision: Allowed

Judgement

P.V. Subba Rao, J

1. Shri Satnam Singh Oberoi and Shri Harvinder Singh Oberoi, the appellants filed these two appeals to assail the order-in- appeal, impugned order

dated 31.10.2016 passed by the Commissioner (Appeals) whereby he upheld the order-in-original, OIO dated 06.06.2016 passed by the Assistant

Commissioner and rejected the appeals filed by these two appellants but allowed the appeal filed by one Shri Amrik Singh Oberoi.

2. Shri Amrik Singh and the two appellants are brothers. They rendered services of renting of immovable property and franchisee service to M/s.

Texla Electrovision- a partnership firm owned by the wives of Shri Amrik Singh and the two appellants. They received a sum of Rs. 1,75,000/- each

per month as rent and a sum of Rs. 40,000/- per month each as royalty for using the brand name $\text{\AA}\phi\hat{\text{a}},\text{-}\tilde{\text{E}}\text{\AA}\phi\hat{\text{a}},\text{-}\hat{\text{a}},\text{\AA}$ from the service recipient M/s. Texla

Electrovision. They availed the benefit of exemption up to Rs. 8,00,000/- each under Notification No. 6/2005-ST dated 01.03.2005 as amended by

Notification No. 4/2007-ST dated 01.03.2007 and thereafter paid service tax on the consideration received for the services.

3. The records of M/s. Texla Electrovision were audited by the Director General Audit for the period April 2007 and June 2007 and it was felt that the

brand name TEXLA was not registered in the name of Shri Amrik Singh and the two appellants herein and therefore, the franchisee services provided

using the brand name TEXLA was not eligible for the exemption under Notification No. 6/2005-ST as amended. Therefore, service tax was

demanded from the three and demands were confirmed against the three by the Assistant Commissioner.

4. On appeal, the Commissioner (Appeals) passed the impugned order allowing the appeal of Amrik Singh holding that TEXLA was registered in his

name and therefore, he was entitled to the exemption notification but held that the appellants herein (Satnam Singh and Harvinder Singh) were not

entitled to the benefit of the exemption notification. Aggrieved, these two appeals are filed before us.

Submissions on behalf of the appellant

5. Learned counsel for the appellants submitted that there is no dispute that the appellants had rendered the services and had paid service tax. The

only dispute is if the appellants were entitled to the benefit of the exemption notification or not.

6. The Commissioner (Appeals) held that the appellants were not entitled to the benefit of exemption Notification No. 6/2005-ST dated 01.03.2005 as

amended by Notification No. 4/2007-ST dated 01.03.2007 giving the reason that the brand TEXLA was registered in the name of Shri Amrik Singh

only and not in the name of the appellants herein. To come to this conclusion, the Commissioner (Appeals) relied on a website [www.](http://www.Indiafilings.com/index.php)

Indiafilings.com/index.php.

7. The reliance placed by the Commissioner (Appeals) on the above website is not correct as the authority to register the trade marks is the Registrar

of Trade Marks. Learned counsel submitted a copy of the certificate of registration of the trade name Texla in the names of Shri Satnam Singh

Oberoi, Shri Harvinder Singh Oberoi and Shri Amrik Singh Oberoi. He also submitted a copy of the certificate of registration of the trade name

Texlavisoin in the names of Shri Satnam Singh Oberoi, Shri Harvinder Singh Oberoi and Shri Amrik Singh Oberoi and Smt. Harnam Kaur Oberoi.

8. He prayed that considering the certificates of registration issued by the Registrar of Trade marks, it may be held that the appellants herein were

entitled to the benefit of the Exemption Notification No. 6/2005-ST as amended and accordingly their appeals may be allowed and the impugned order

be set aside insofar it pertains to the two appellants.

Submissions on behalf of the Revenue

9. Learned authorised representative supported the impugned order.

Findings

10. We have considered the submissions advanced by both sides and perused the records. The short question to be answered is if the appellants were

entitled to the benefit of the Notification No. 6/2005-ST dated 01.03.2005 as amended by Notification No. 4/2007-ST dated 01.03.2007. The sole

dispute is if the appellants get excluded by virtue of the proviso to this notification which reads as follows:

“Provided that nothing contained in this notification shall apply to,-

(i) taxable services provided by a person under a brand name or trade name, whether registered or not, of another person;”

11. The Commissioner (Appeals), relying on a website www.indiafilings.com/index.php, concluded that the two brand names were registered only in

the name of Shri Amrik Singh and therefore, allowed his appeal but did not allow the appeals of the two appellants herein (Satnam Singh and

Harvinder Singh). From the copies of the certificates of registration issued by the Registrar of Trade marks produced before us, we are convinced

that the two trade marks Texla and Texlavisoin were also registered in the name of the two appellants herein.

Therefore, they were entitled to the

benefit of the exemption notification.

12. In view of the above, we allow both appeals and set aside the impugned order insofar as it pertains to these two appellants. The appellants will be

entitled to consequential relief.

(Order pronounced in open court on 11/12/2024.)