

AUTHORITY FOR ADVANCE RULINGS
(CENTRAL EXCISE, CUSTOMS & SERVICE TAX)

The 4th day of February, 2010
Ruling No. AAR/ST/ 01/2010
In

Application No. AAR/06/ST/2009

Present: Mr. Justice P.V.Reddi (Chairman)
Mr. J.K.Batra (Member)
Mr. J. Khosla (Member)

Applicant : M/s CAE Flight Training (India)
Private Limited,
Survey No. 26,27 Bandaramanhalli
Village, Anneshwara Panchayat,
Kasaba Hobli, Devanahalli Taulk,
Bangalore – 562 110

Present for the applicant : Sh. V. Deepak (Cost Accountant)
Pricewaterhouse Coopers

Shri Sandeep Kumar Jain
(Chartered Accountant)
Pricewaterhouse Coopers

Capt. G.R.Reddy, General Manager,
CAE, Flight Training (India) Pvt. Ltd

Commissioner concerned : Commissioner of Service Tax
No. 16/1, S.P.Complex,
Lal Bagh Road,
Bangalore-560 027

Present for the Commissioner
concerned : Shri B.K.Singh Jt. CDR
Shri Sumeet Kumar, SDR

RULING
(By Mr J.K.Batra)

M/s CAE Flight Training (India) Pvt. Ltd., Bangalore,
(hereinafter referred to as CFTI), the applicant, is a joint venture
between Flight Training Device (Mauritius) Ltd, a 100% subsidiary
of CAE Inc., Canada and Emirates CAE Flight Training LLC,
Dubai. The applicant is engaged in providing various Flight

Training Services at its facility in Bangalore. It now intends to provide aircraft specific “Type Rating Training” to the trainee pilots as part of its flight training services.

2. CFTI has stated that the trainee pilots after undergoing the requisite basic flight training at flying schools are granted a Commercial Pilot’s Licence (CPL) which enables them to fly only small aircraft such as Diamond and Cessna. The Commercial Pilot’s Licence per-se does not allow or permit the holder to fly commercial passenger aircrafts such as B737s and A320s unless the holder undergoes an aircraft-specific type rating training. It is only after they have undergone the aircraft-specific type rating training and after their licence is endorsed to that effect that they are allowed to fly commercial passenger aircrafts. CFTI imparts flight training to the trainees whereby CPL holders are trained on specific aircraft simulators. Such aircraft-specific training is called ‘type rating training’ and is an extensive course of a minimum 37 days wherein the trainees are imparted specified skills and knowledge about specific aircraft.

3. CFTI, the applicant, has been providing ‘dry’ training to the Commercial Pilot’s Licence (CPL) holders from various airlines who have already been type rated for specific aircraft. The ‘dry’ training involves granting the right to use the Full Flight Simulators to airline companies for scheduled hours with their pilots training

under the guidance of airline company's own instructors. CFTI has also been providing 'wet' training to pilots on A320 and B737 aircraft simulators wherein training is provided by CFTI's trainers. CFTI has obtained service tax registration under the category "Commercial Training and Coaching Service" in October, 2008 and it is stated by the applicant's representative that on such 'wet training' it has been paying service tax. The applicant has clarified that it is seeking a ruling with regard to service tax liability on full-fledged 37 day wet training conducted by it for 'Type Rating'.

4. CFTI has started providing type rating training commercially from April 28, 2009 for the first batch of pilots and the course was yet to be completed when the application for Advance Ruling was made before the Authority on 26th June, 2009. The Commercial Pilot's Licence holders intending to undergo aircraft-specific type rating training approach CFTI either directly on their own or through the airlines with whom they are employed (on stipend basis as trainee or otherwise). CFTI has been approved by the Directorate General of Civil Aviation (DGCA) on a **provisional** basis to conduct aircraft-specific type rating training courses for B737 & A320 aircraft subject to certain conditions. CFTI has claimed that once the trainee pilots have completed the type rating training with it they will be issued a **Certificate of Course**

Completion by CFTI which must be produced under the terms of para 5 of Section J Schedule II of the Aircraft Rules, 1937.

5. Based on the aforesaid facts the applicant has sought a ruling on the following questions, namely:-

“1. Whether CFTI can be considered as an institute imparting training which is specifically excluded from the definition of ‘Commercial coaching and training centre’ as defined under Section 65(27) of the Finance Act, as an establishment which issues a certificate recognized by law for the time being in force?

2. Whether CAE Flight Training (India) Private Limited can be considered ‘Vocational Training Institute’ so as to be exempted from tax under the category of ‘Commercial Training & Coaching Service’ as provided under Notification No. 24/2004 dated 10.9.2004, in light of the fact that it provides aircraft specific training to CPL holders so as to enable them to qualify for flying specified aircrafts and to subsequently enable them to obtain employment in various airlines?”

6. The application filed by CFTI was allowed by the Authority vide its order dated 22nd October, 2009 under Section 96 D(2) of the Finance Act, 1994 after duly considering the comments of the Commissioner of Service Tax, Bangalore.

7. Sub-clause (zzc) of clause (105) of Section 65 of the Finance Act, 1994 defines “taxable service” in the context of commercial training or coaching as a “service provided or to be

provided to any person, by a commercial training or coaching centre in relation to commercial training or coaching”. Clause (27) of the said Section 65 defines “commercial training or coaching center” as follows:

“commercial training or coaching centre” means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and include coaching or tutorial classes **but does not include** preschool coaching and training centre or **any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognized by law for the time being in force**; (*emphasis supplied*)

As mentioned above CFTI is engaged in providing several kinds of flight training services. It is already paying service tax on some of these training services. The issue to be considered is whether for the purposes of “type rating training” services CFTI can be said to be covered by the exclusion clause in the definition of “commercial training or coaching centre”.

8. For any institute or establishment to be covered by the exclusion clause of the definition of ‘commercial training and coaching centre’, it has to satisfy the following elements, namely:-

- (a) the institute or establishment should issue a certificate, a diploma, a degree or any educational qualification; and
- (b) such a testimonial should be recognized by law for the time being in force.

CFTI has claimed that the **certificate of course completion** proposed to be issued by it would squarely fulfill the requirements of the exclusion clause of the definition of a “commercial training and coaching centre” and consequently keep it out of the scope of levy of service tax for the type rating training provided by it. In this behalf it has adduced the following arguments:

- (a) CFTI has been approved by the Directorate General of Civil Aviation (DGCA) as a Type Rating Training Organization (TRTO) for the enhancement of the skill and knowledge of trainees. The DGCA through the Civil Aviation Requirement (CAR) document lays down the minimum requirement relating to the infrastructure, procedure and manpower for the grant of approval for undertaking flying training activities. The CAR is issued under Rule 133 A of the Aircraft Rules, 1937. The CAR for approval of Flying Training Institute vide Section 7 – Flight Crew Standards, Training and Licensing, Series D, Part I dated 15th July, 1999 prescribes the necessary requirements that a training institute should have for approval. CFTI has been accorded the approval after due inspection of its facilities.
- (b) CFTI has claimed that unless a Commercial Pilot’s Licence holder has undergone aircraft-specific training, he is not permitted to fly that aircraft. In this context they have relied upon Rule 6 A of the Aircraft Rules, 1937 which reads as follows:

“6 A - Type of aircraft to be included in rating.-
No person shall fly as pilot of an aircraft which is not included or entered in the aircraft rating of the licence except as provided in the Rules 6 B and 6 C.”

It has also drawn a reference to paragraph 5 of Section J, Schedule II of the Aircraft Rules, 1937 which specifies the evidence required to be produced by an applicant for

extension of aircraft rating. The said paragraph 5 is reproduced below:

“5. Extension of Aircraft Rating.-

For extension of aircraft rating to include an additional type of aeroplane, an applicant shall be required to produce evidence of –

- (i) having passed a written examination in Aircraft and Engines as mentioned in para 1(d) and of having gained, under appropriate supervision, experience in flying the aircraft of such type or on approved flight simulator in respect of the following, namely:-
 - (a) normal flight procedures and manoeuvres during all phases of flight;
 - (b) abnormal and emergency procedures and manoeuvres in the event of failures and malfunctions of equipment, such as power plant, systems and airframe;
 - (c) where applicable, instrument procedures, including instrument approach, missed approach and landing procedures under normal, abnormal and emergency conditions, including simulated engine failure;
 - (d) procedures for crew incapacitation and crew coordination including allocation of pilot tasks; crew cooperation and use of check lists; and
- (ii) having satisfactorily completed the general flying tests by day and night in accordance with para 1 (h) in respect of the type of aircraft for which the extension of aircraft rating is desired. Such flying tests shall have been completed within a period of six months immediately preceding the date of application for extension of the aircraft rating”.

- (c) The representative of CFTI has informed during the course of oral hearing that the various pilot proficiency checks under specified condition (day/night check, instrumentation rating check etc.) are required to be carried out by the DGCA approved examiner but who would be an employee of CFTI. CFTI shall provide the course completion certificate to the trainees based on the comments given by the DGCA approved examiner (CFTI employee).

9. CFTI has stated that in view of the aforesaid legal requirements, each CPL holder must undergo such type rating training and get the endorsement in his Commercial Pilot's Licence so as to be able to fly specific aircrafts. Therefore, the issuance of a Certificate of Course Completion by CFTI "can be said to be" recognized by law presently in force. Thus, CFTI submits that it is clearly excluded from the definition of a "commercial training and coaching center" as defined by Section 65(27) of the Finance Act, 1994.

10. The claim of the applicant has been contested by the revenue authorities. Revenue has pointed out that a certificate/diploma cannot be called as one recognized by law unless statutory authorities such as University Grants Commission(UGC), All India Council for Technical Education(AICTE) etc. have specifically recognized such a diploma or a certificate. Consequently the Course Completion Certificate issued by CFTI cannot be said to be recognized by law for the time being in force. The Revenue has also referred to a clarification dated 17.12.2009 issued by the Director (Training and Licensing), Directorate General of Civil Aviation (DGCA) clarifying that -

"The certificate issued by CAE Fight Training (India) Pvt. Ltd., Bangalore enables the Commercial Pilot to appear in the written examination conducted by DGCA for issue of Aircraft Type Rating pursuant to the requirement of series "J" and "M" of Schedule II of the Aircraft

Rules, 1937. However, there is no statutory provision directly requiring issuance of such a certificate by the training organization”.

The Revenue also referred to an earlier clarification dated 14.12.2009 issued by the Chief Flight Operation Inspector, DGCA stating that...

“This is to clarify that this sample course completion certificate will enable the trainee to complete some of the several parameters as laid down in Schedule II, Sections J and M of Indian Aircraft Rules and apply to Director (Training and Licensing) in order to obtain extension of aircraft type rating on his professional Pilot’s license, which is the basic requirement to render him eligible for employment as a pilot”.

On the basis of these letters from DGCA, Revenue has contended that there is no statutory requirement for the Course Completion Certificate by DGCA and that such a certificate only enables the trainee pilot to apply to DGCA for appearing in the examination conducted by it. It is the examination conducted by the DGCA which is the statutory requirement and not any examination by the applicant. The applicant is merely coaching/preparing the candidates for this Type Rating Examination.

11. Apart from the legal provisions cited by CFTI, the applicant, and the clarifications of DGCA referred to above, it is observed that the DGCA has prescribed an application form for extension of aircraft type rating. Pilots requiring an endorsement in their Licence for permission to fly an aircraft for which they have undergone type rating training are required to fill up this form. The format as also

the instructions to the applicant for filling the application form were tendered by the applicant during the course of oral hearing. The instructions specify the guidelines for filling up each Serial No. of the form and the list of documents which are required to be enclosed with the form. It is observed that the documents required to be enclosed are to be certified / signed by “approved examiner”. The instructions do not require these documents to be certified by the training institutes/establishment. The Authority accordingly requested the applicant to furnish a reply to the following queries.-

1. Whether as per pro-forma of the application prescribed by DGCA for extension of Aircraft Rating under paragraph 5 of Section J of Schedule II of the Aircraft Rules, 1937, the certificate of the Type Rating Training Organization is required to be furnished as an enclosure? If so, under which serial number of the application or the list of enclosure has such a requirement been specified?
2. Is there any list of “approved examiner” by DGCA for the purpose of the Aircraft Rules, 1937?

In reply to the first query the applicant has stated that the certificate issued by it is required to be attached along with the application form for extension of type rating. In this context the applicant has referred to Serial No. 16(I) of the instructions to the applicants for filling up the form. The said entry reads as under-

“16 LIST OF ENCLOSURES :- The following documents may be submitted with the application for endorsement

(A)

(B)

.

.

.

(H)

(I) Skill Test Reports, both day & night as well as IR Test Report, if applicable, in formats CA 40 A or CA 40 B or otherwise (For Aircraft below 5700 Kgs.). The reports should be signed by DGCA approved Examiner alongwith relevant recency certificate given thereon. The corresponding log book entries should be signed /certified by the DGCA approved examiner likewise.

(J).....”

The applicant has stated with reference to aforesaid entry (I) that the certificate issued by CFTI “needs to be attached along with the skill test reports (both day and night as well as IR test report) in the formats CA 40A or CA 40B as a mandatory requirement amongst others”.

In reply to the second query it has been stated by the applicant that DGCA does have a list of approved examiners who are authorized to comment on satisfactory or non-satisfactory performance of the trainees. They have enclosed a list of such examiners as on 12th March, 2009 as downloaded from DGCA’s website. They have enclosed a letter dated 23rd October, 2009 from DGCA issued to CFTI according approval to a person as **Synthetic Flight Instructor** for CFTI for a period of five years.

There is no mention of DGCA appointed 'approved Examiner' associated with it.

12. The crucial issue is whether a course completion certificate/ endorsement issued by CFTI can be said to be a requirement recognized by law for the time being in force. The argument of the Revenue that only certificates recognized by UGC, AICTE etc. can be said to be recognized by law is not acceptable because such bodies are not the only statutory authorities. The exclusion in Clause (27) of Section 65 of the Finance Act, 1994 has not qualified the word "law" in the phrase "recognized by law for the time being in force" so as to restrict its coverage only to any specific Acts establishing regulatory bodies for Universities or institutes for Technical Education. There can be other statutes which recognize such degree, diploma, certificate or qualification. The Director General of Civil Aviation is also a statutory authority exercising powers conferred on it under the Aircraft Act, 1934 and the rules made there under. Consequently if a certificate is recognized by the DGCA for any specific purpose in pursuance of the provisions of the Aircraft Act and/or the Aircraft Rules, then the said certificate will satisfy the condition of having been recognized by law for the time being in force.

13. As noted above the question of recognition revolves around the certificate of course completion issued by CFTI. As per the

text of the certificate proposed to be issued by CFTI and enclosed with the application for Advance Ruling, CFTI would certify as follows:

“This is to certify that the above named pilot has successfully completed a Type Rating Course in respect ofon.....and the application is now made for the grant of the Aircraft Rating”.

The certificate then provides the course details such as Ground Training, Avionic Training, Full Flight Simulator Training, Licence Skill Test. Finally the certificate carries the following endorsement -

“All the items of the Form GFT (MPA) (Application for a Multi-Pilot Aeroplane Type Rating Skill Test for DGCA Licenses) have been completed.”

As may be observed this is not the certificate in the conventional sense wherein the Issuing Authority formally recognizes a particular person as possessing certain qualification or meeting certain standards. A course completion certification has been done while at the same time forwarding the application for grant of aircraft rating. This document certifies the fact that the pilot has successfully completed an Aircraft Type Rating Training Course. The question is whether this certificate is recognized by law as per the requirements of exclusion clause of the definition.

14. The applicant has claimed that its establishment has been approved by the Directorate General of Civil Aviation (DGCA) as a Type Rating Training Organization. It has also enclosed a

communication dated 25.02.2009 to this effect from the DGCA in which it has been stated as follows:-

“It has been decided that a provisional approval to conduct type rating courses for B 737 NG is hereby granted subject to the following conditions:

1. The first two batches of trainee pilots, upon successful completion of the ground training syllabus, shall undergo DGCA technical/performance examination conducted by CEO.
2. The first two batches of trainee pilots, upon successful completion of simulator training shall be subject to skill test/ CA 40 checks and IR checks by Flight Operations Inspector.

After the above process is completed, we shall review this provisional approval”.

A similar approval has been granted to CFTI to conduct Type Rating courses for A 320 Aircraft vide DGCA communication dated 20th May, 2009. It is noted that M/s CFTI have been given a provisional approval to conduct Type Rating courses. Further, the first batch of trainee pilots will be subjected to an examination by an agency other than CFTI. Likewise they will be subjected to a skill test after completion of simulator training by the Flight Operation Inspector. Thus the approval presently given is “to conduct type rating courses” but not as a full fledged Type Rating Training Organization (TRTO).

15. CFTI has claimed that undergoing Type Rating Training is mandatory as per Rule 6A of the Aircraft Rules, 1937. It is however, observed that the said rule prohibits a person from flying an aircraft as pilot unless the said aircraft is included or entered in

his licence. There is no specific mention of training in Rule 6 A though the training and passing of the prescribed examination is a step in aid for such aircraft rating.

16. A reference has been made by the applicant to para 5 of Section J, Schedule II of the Aircraft Rules, 1937 which specifies the evidence required to be produced by an applicant for extension of Aircraft Rating. The said provision requires the applicant to produce evidence of having passed written examination in subjects pertaining to aircraft and engines and of having gained experience in flying the aircraft or on approved flight simulators etc.

The DGCA, the authority competent in law to endorse aircraft ratings in the licence of the pilots has prescribed an application form and has also specified the documents to be enclosed with the form to satisfy itself that the evidence required in para 5 of the said Section J, Schedule II of the Aircraft Rules, 1937 for extension of aircraft ratings has been produced. From the format of the application form, it is noted that in the main form, there is no entry requiring a mention of the institute from where the applicant may have undergone training. There is a column for sponsoring authority (Serial No. 12) wherein as per the instructions, the name of the training institute could be specified. In the list of enclosures specified at Serial No. 16 on page 2 of the Instructions to applicants for filling the application form, several

documents have been prescribed to be attached with the application form. These documents include the ground class certificate showing total classes duration in hours with dates [Serial No. 16 (E)], the simulator profile session wise [Serial No. 16(G)], flying training reports [Serial No. 16(H)] etc. Each of these documents is required to be signed or certified by an **approved examiner**, that is, an examiner approved by the DGCA. Even in the case of skill test reports [Serial No. 16(I)] in respect of which the applicant claims that the certificate of course completion issued by it is in fulfillment of this requirement of DGCA, it is noticed that what is required to be enclosed is the skill test reports in formats CA 40A or CA 40B and nothing else. On perusal of these formats it is noticed that these are required to be certified by a DGCA **approved examiner** and not by the training institute unless the institute itself is designated as an approved Examiner. Moreover, it is not the case of the applicant that presently an approved Examiner is attached to CFTI and certification is done by him/her on behalf of the Institute. The claim of CFTI that the certificate of course completion issued by it is required to be attached along with the application form in pursuance of the entry at Serial No. 16 (I) of the list of enclosures to the application form is not supported by the wordings of the said Entry. May be, in actual practice, this is being done; however, for that reason, it cannot be said that such

certificate is prescribed under the Rules or the certificate is “recognized by law”. The evidence that the DGCA is looking for is qualitatively different from what the CFTI proposes to provide.

17. The applicant has also claimed during arguments that the pilot proficiency test would be conducted by DGCA approved examiner who will also be a CFTI employee. They have also stated that no such technical / performance examination would be conducted by DGCA on a mandatory basis beyond the first two batches. Perhaps the implication is that in that scenario CFTI would function as a self contained institute which would not only impart skills to pilots seeking aircraft rating but also conduct the examination based on syllabus of DGCA. The results would then be recognized by DGCA in the form of endorsement of aircraft rating in the licence. However, at present, that situation does not exist. Further as per the clarification given by DGCA to the Revenue, the candidates trained by CFTI would for the present be examined by DGCA approved examiners and not CFTI. This clarification appears to be in consonance with the rule position. Thus, the applicant – CFTI’s certificate is still some distance away from attaining recognition under the Rules and therefore cannot be covered by the exclusion under Section 65 (27) of the Finance Act, 1994.

18. Taking all the aspects into consideration it is noted that CFTI has been given, as on date, a **provisional** approval for conducting Type Rating Courses. The candidates who receive training from CFTI would be subjected to examination/test by DGCA approved examiners. It is based on the results of these examinations and fulfillment of other prescribed conditions that the DGCA would endorse the type rating of aircraft in the licence of the trainee pilots. In the present circumstances therefore the Certificate of Course Completion issued by CFTI cannot said to be a certificate which is recognized by law for the time being in force. The fact that such a certificate may be taken into account by the DGCA - approved Examiner for the purpose of evaluating the experience and content of training, will not make it statutory in character.

19. The **second issue** on which CFTI, the applicant, has requested for a ruling pertains to CFTI to be considered as a “vocational training institute” so as to be exempted from service tax in terms of Notification No. 24/2004-ST dated 10th September, 2004. The said Notification inter-alia exempts taxable services provided in relation to commercial training or coaching by a vocational training institute to any person from the levy of service tax. The expression vocational training institute has been defined in the Notification as follows:

(i) “vocational training institute” means a commercial training or coaching centre which provides vocational training or coaching that impart skills to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching;’

20. CFTI has stated that it provides aircraft-specific training to Commercial Pilot’s Licence holders so as to enable them to qualify for flying specific aircraft. The trainees who undergo Type Rating Training at CFTI would be able to seek employment with the airlines companies as first officer or co-pilots to fly specific aircraft alongside the Captain/Pilot in command. The applicant’s representative has relied on the order of CESTAT in the case of *M/s Pasha Educational Training Institute Vs Commissioner of Service Tax, Hyderabad*¹ in support of its claim in this behalf. In this case the Tribunal held that the comprehensive training for Insurance Agents imparted by the institute which is approved by the Insurance Regulatory and Development Authority (IRDA) can be considered as vocational training. The Tribunal did not accept the argument of the Commissioner that even after the training, the trainees should again write examination conducted by IRDA to qualify to work as insurance agent. The Tribunal held that the training imparted should be considered to be a vocational training eligible for exemption from service tax under Notification No.

¹ [2009(14) STR 481 (Tri- Bang)]

9/2003-ST. (Definition of 'vocational training institute' is identical in the two notifications, that is, 9/2003 and 24/2004).

21. Revenue has contested this claim of CFTI and has stated that CFTI will not qualify for exemption as a Vocational Training Institute under Notification No. 24/2004 supra. The Revenue has taken the stand that the pilots after undergoing training with CFTI will not be able to seek employment "directly" after such training or coaching and hence CFTI is not covered by the definition of 'vocational training institute' as given in the notification.

22. The issue to be considered is whether the Type Rating Training by CFTI enables the trainee to seek employment or undertake self-employment directly after such training or coaching. It is important to note that only in cases where trainee can seek employment directly after the training can the institute be considered to be covered by the exemption. From the facts placed before us it is noted that as per Rule 6 A of the Aircraft Rules, no person shall fly as pilot of an aircraft which is not included or entered in the Aircraft Rating of the Licence. Thus a person can fly an aircraft and consequently seek employment with an Airlines company only after his licence has been endorsed with the aircraft rating for the said aircraft by the DGCA. Merely undergoing training with a TRTO without endorsement of the licence by a competent authority will not enable a pilot to fly an aircraft or seek

employment. The training does not directly result into an employment or even enable the trainee to undertake self employment.

23. Coming to the decision of the Customs, Excise and Service Tax Appellate Tribunal in the case of M/s Pasha Educational Training Institute (para 20), the Learned Tribunal has not specifically discussed the aspect as to how the training in the appellant-institute would directly enable the trainee to seek employment or undertake self employment. Except referring to the fact that the appellant institute is recognized by IRDA, no other reason is given to say that the appellant institute satisfies the ingredients of a vocational training institute. Moreover, there is a possibility of candidate undergoing training in the said institute seeking self employment in some form or the other in the insurance sector. In the case before us the factual position as far as aircraft pilots are concerned is very much different. A Commercial Pilot's Licence holder cannot seek the job of flying an aircraft for which he has undergone Type Rating Training unless an endorsement to that effect is made in the licence of the CPL holder by the DGCA. It is the endorsement which makes him eligible to obtain employment with Airlines to fly the aircraft for which he has been type rated and not the fact of having completed

the training with the institute. Surely the medical assessment required to be appended with the application form cannot be given by training institute. The DGCA clearly requires more than the course completion certificate for endorsing the Aircraft Type Rating in the licence of CPL holder. It is incorrect to claim on behalf of CFTI that a trainee pilot can directly obtain employment after completion of the course. The activity which enables the CPL holder to get the employment is the endorsement on the licence by the DGCA. If a similarity has to be drawn, a motor vehicle driver cannot legally obtain employment as a driver merely after undergoing training in a driving school unless he has obtained a driving licence from the State Transport Authority. M/s Pasha Educational Training Institute's judgment has to be analysed in this background.

24. The applicant has also referred to the decisions of the Bangalore Bench of the Tribunal in -

- (i) *Centre for Development of Advanced Computing vs. CCE, Hyderabad* ²,
- (ii) *Institute of Chartered Financial Analysts of India vs. CC&CE, Hyderabad-II* ³, and
- (iii) *Magnus Society vs. CC&CE, Hyderabad* ⁴.

In all these cases it was held that the institutions engaged in advanced research and imparting education as per the syllabus

² 2009 (14) S.T.R. 165 (Tri.-Bang.)

³ 2009 (14) S.T.R. 220 (Tri.-Bang.)

⁴ 2009 (13) S.T.R. 509 (Tri.-Bang.)

prescribed by a University cannot be considered to be 'commercial training or coaching centres'. We do not see how the ratio of these decisions can come to the aid of the applicant.

25. In view of the above discussion, the ruling with reference to the questions raised in the application is given as follows:-

Question No.1 :

The question is answered in negative. CFTI cannot be considered as an institute or establishment which is specifically excluded from the definition of "commercial coaching and training centre" under clause (27) of Section 65 of the Finance Act. 1994. It is however, made clear that this ruling has been given in the context of the facts presently before the Authority and in the light of Rules now existing.

Question No.2:

CFTI cannot be considered as a "vocational training institute" for the purpose of exemption from service tax under the category of "commercial training and coaching service" in terms of Notification No. 24/2004-ST dated. 10.09.2004.

Accordingly Ruling is given on this 4th day of February, 2010.

Sd/-
(J.K.Batra)
Member

Sd/-
(P.V.Reddi)
Chairman

Sd/-
(J.Khosla)
Member