**Customs, Excise & Service Tax Appellate Tribunal**
**West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO.3
**Service Tax Appeal No. 370 of 2010**
(Arising out of OIA-COMMR-A-/317/VDR-II/2009 dated 31/12/2009 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-VADODARA-II)

**Ishwar Bhuvan Hotels Ltd** **Appellant**
Sayaji Gardens,
University Road,
Vadodara, Gujarat

VERSUS

**C.C.E. & S.T.-Vadodara-ii** **Respondent**
1st Floor... Room No.101,
New Central Excise Building,
Vadodara, Gujarat- 390023

**APPEARANCE**:
Shri Dhaval Shah, Advocate for the Appellant
Shri G.Kirupanandan, Superintendent (AR) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR**
**HON'BLE MEMBER (TECHNICAL), MR. RAJU**

**Final Order No. A/ 12622 /2021**

DATE OF HEARING: 16.12.2021
DATE OF DECISION: 16.12.2021

**RAMESH NAIR**

The issue involved in the present case is whether the appellant is liable to pay service tax under Mandap keeper Service in respect of the Conference hall given to the client. The stand of the appellant is that they have not provided the service of Mandap keeper whereas they have sold the food items therefore, it does not fall under Mandap keeper Services.

2. Shri Dhaval Shah, Learned Counsel appearing on behalf of the appellant at the outset submits that in respect of all the relevant bills the appellant has paid the VAT therefore, it is a sale of food and not the service of Mandap Keeper. He fairly concedes that the issue of payment of VAT was neither raised before lower authorities nor was considered. He placed reliance on the following judgments:-

* Imagic Creative Pvt. Ltd. 2008 (9) STR 337 (SC)
* SKY Gourmet Pvt. Ltd.- 2009 (14) STR 777(Tri.- Bang.)
* Daspalla Hotels Ltd - 2010(18) STR 75 (Tri.Bang.)
* M/s Gola Five Star Banquet- 2018 (4) TMI 724- CESTAT New Delhi
* Cerebral Learning Solutions Pvt. Ltd. 2013 (32)STR 379(Tri.Del)
* Chokhi Dhani Resorts Pvt. Ltd- 2017 (50) STR 168 (Tri.Del)
* Hyatt Resorts P Ltd- 2019 (4) TMI 179- CESTAT CHANDIGARH

* Hotel Moti Mahal-2020(6) TMI 88- CESTAT, BANGALORE

3. Shri G. Kirupanandan, Learned Superintendent (AR) appearing on behalf of the revenue reiterates the finding of the impugned order.

4. On careful consideration of the submission made by both sides and perusal of records, we find that the payment of VAT is an important aspect has not been argued by the appellant before the lower authorities. Therefore, we are of the view that the matter should be reconsidered after taking into account the aspect of payment of VAT.

5. Therefore, the impugned order is set aside. Appeal is allowed by way of remand to the Adjudicating Authority. All the issues are kept open.

(Dictated and pronounced in the open court)

**(Ramesh Nair)**
**Member(Judicial)**

**(Raju)**
**Member(Technical)**