CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH – COURT NO. II

Service Tax Miscellaneous Application No.50513 of 2019 in
(on behalf of applicant)
Service Tax Appeal No.50148 of 2017

[Arising out of Order-in-Appeal No.351(AK)ST/JPR/2016 dated 27.09.2016 passed by the Commissioner of Central Excise (Appeal-I), NCR Building, Statute Circle, Jaipur-302 005].

M/s. Superintendent of Police **Appellant**
Collectorate Premises,
Karauli, Karauli,
Rajasthan-322 241.

VERSUS

Commissioner of Central Goods and **Respondent**
Service Tax, Customs & Central Excise,
A-Block Surya Nagar, Alwar,
Rajasthan-301 001.

Appearance:

Shri Vijai Kumar, Advocate for the appellant
Shri A. Thapliyal, Authorised Representative for the respondent

CORAM: HON'BLE SHRI ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE SHRI C. L. MAHAR, MEMBER (TECHNICAL)

FINAL ORDER NO.51417/2019

DATE OF HEARING / DECISION: 30.10.2019

ANIL CHOUDHARY:

Heard on the miscellaneous application.

2. We find that although this appeal was earlier heard on 28.02.2017 and the order was reserved, but no final order was passed mistakenly, however,

the order allowing condonation of delay application, dated 27.02.2017 was treated as final order by the Registry, due to clerical mistake apparent on the face of the record. Accordingly, miscellaneous application stands allowed for statistical purposes and in the circumstances, we take up the appeal for fresh hearing.

3. Heard the parties.

4. We find that the issue involved herein is regarding the service tax on 'cost recovery charges' by the Police Department for providing security to the various establishments like banks and other organisations, and whether the same is chargeable to service tax under the head "Security Agency Service".

5. We find that this issue has been decided by this Tribunal in the case of **Dy. Commissioner of Police, Jodhpur Vs. Commissioner of Central Excise & Service Tax, Jaipur-I – 2017 (48) STR 275 (Tribunal-Delhi),** wherein under the similar facts and circumstances, this Tribunal held as follows:-

> **"13.** On the basis of the above discussion, we conclude that police department, which is an agency of the State Govt., cannot be considered to be a "person" engaged in the business of running security services. Consequently, the activity undertaken by the police is not covered by the definition of Security Agency under Section 64(94) of the Act. We also find that in terms of C.B.E. & C.'s circular on this subject, the fees collected by the police department is in the nature of fee prescribed for performing statutory function, which has been deposited into the Govt. treasury. In the light of the C.B.E. & C.'s

> circular also, there can be no levy of service tax on such activities carried out by the police department."

6. Accordingly, we allow this appeal with consequential benefits. The impugned order is set aside.

7. So far as the report dated 28.10.2019 received from the Registrar, the same may be put up before the Hon'ble President for appropriate action /order on administrative side.

[Order dictated & pronounced in open court]

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(**C.L. MAHAR**)
MEMBER (TECHNICAL)

Ckp.