FAX : 011-26108426 REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: 22/10/2014

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/54070-54071/2014-CU[DB]** dated **17/10/2014**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section **01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.**

**Asstt. Registrar(CUSTOMS Appeal Branch)**

| Application | Appeal | Name and Address of Appellant |
|---|---|---|
| 1 | ST/1618/2011 | **PARADISE MEHAK PROPERTIES PVT. LTD.** 407, PARADISE, C-61A, SAROJINI MARG, C-SCHEME, JAIPUR (RAJASTHAN) |
| 2 | ST/2138/2012 | **Lake Palace Hotels And Motels Pvt Ltd** City Palace, Udaipur-313001. |
| | | Name and Address of Respondent |
| 3 | | **C.C.E. JAIPUR I** N.C.R.Building, Statue Circle, "C" Scheme, jaipur 302005. |

Other Appellants and Respondents as per Annexure

**Copy To**

4 Advocate(s) / Consultant(s):

**V. Lakshmi Kumaran**
**5, Jangpura Extension,**
**Link Road,**
**New Delhi-110014**

5 Additional Party's Name & Address :
6 Bar Association, CESTAT, Delhi
7 Director Publications, Customs, Excise. I.P. Estate, Delhi
8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
9 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
10 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
11 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
12 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
13 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
14 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
15 C.D.R. 16 Office Copy 17 Guard File

**Asstt. Registrar(CUSTOMS Appeal Branch)**

IN THE CUSPTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/ Decision:17.10.2014

| | | |
|---|---|---|
| 1 | Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982? | |
| 2 | Whether it should be released under Rule 26 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? | |
| 3 | Whether their Lordships wish to see the fair copy of the Order? | |
| 4 | Whether Order is to be circulated to the Departmental authorities? | |

Service Tax Appeals Nos.1618/2011-CU(DB)and 2138 of 2012

[(Arising out of order-in-appeal No.332(DKV)ST/JPR-I/2011 dated 29.07.2011in respect of Appeal No.1618/2011-CU(DB) and order-in-original no.23/2012/ST/JPR-II dated 30.03.2012 passed by the Commissioner of Central Excise (Appeals), Jaipur-II)]

M/s.Paradise Mehak Properties Pvt. Ltd. Appellants
M/s.Lake Palace Hotels and Motels Pvt. Ltd.

Vs.

CCE & ST, Jaipur-I Respondent

**Appearance**:
Shri Narendra Singhvi, Advocate for the appellant.
Shri Govind Krishna Dixit and Ms.Suchitra Sharma, DRs for the respondent.

**Coram**:
Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Rakesh Kumar, Technical Member

**Final Order nos...54070-54071...dated:17.10.2014.**

**Per Archana Wadhwa:**

Both the appeals are being disposed of by a common order as the issue involved is common.

2. The appellants are owners of hotel buildings, which are rented by them to M/s. Indian Hotels Company Ltd., who were running a hotel in the said building.

3. Revenue by entertaining a view that the appellant are under obligation to pay service tax under the category of "renting of immovable property" initiated

proceedings against them, which resulted in passing of the present impugned orders. At this stage, we find that the issue is no more res integra and the Tribunal in the case of **Jai Mahal Hotels Private Limited Vs. CCE – 2014-TIOL-992-CESTAT-DEL** has held that leasing/renting of immovable property for a hotel is expressly excluded from the ambit of the taxable service under Section 65(105)(zzzz).

4. By following the said decision, we hold that the appellants were under no tax liability for payment of service tax on the said activity.

5. In addition to the above, in the case of M/s.Lake Palace Hotels & Motels Ltd., there is another demand of Rs.56,364/-, which arises in respect of the renting of immovable property in respect of another premises. The appellant have discharged their tax liability on the said activity but by treating the entire consideration, as cum-tax. However, as the appellant have subsequently claimed tax from their customers, Revenue is of the view that cum-tax benefit would not be available to them.

6. The contention of the appellant is that though they raised ~~received~~ the tax amount from their customers, the same has not been paid by them as is clear from the ledger maintained by them. Such ledger can be produced before the Original Adjudicating Authority to substantiate their above plea. We accordingly remand the matter to the Original Adjudicating Authority to examine and verify the above ledger and their claim that the tax amount has not been given to them by their customers and to re-decide the issue accordingly. Both the appeals are disposed of in the above manner.

20/10/14
(Archana Wadhwa)
Member (Judicial)

23/10/14
(Rakesh Kumar)
Member (Technical)

Ckp.

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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: 14/07/2016

To

Appellant as per address in table below

Respondent as per address in table below

Stay/Misc Order No. **MO/50817-50818/2016-CU[DB]** dated **11/07/2016**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section **01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.**

**Deputy/Asstt. Registrar (CUSTOMS Appeal Branch)**

| | Application | Appeal | Name and Address of Appellant |
|---|---|---|---|
| 1 | ST/COD/52313/2015<br>ST/ROM/52312/2015 | ST/2138/2012 | **Lake Palace Hotels And Motels Pvt Ltd**<br>City Palace, Udaipur-313001. |
| | | | Name and Address of Respondent |
| 2 | | | C.C.E. & S.T.-Jaipur-II<br>NCR BUILDING, STATUE CIRCLE, C-SCHEME,<br>JAIPUR,<br>RAJASTHAN-302005 |

Other Appellants and Respondents as per Annexure

**Copy To**

3 Advocate(s) / Consultant(s):

**V. Lakshmi Kumaran**
**5, Jangpura Extension,**
**Link Road,**
**New Delhi-110014**

4 Bar Association, CESTAT, Delhi
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6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp. ICICI Bank of Defence colony Delhi-3
7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
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10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
11 TaxIndiaOnline.com Pvt. Ltd., B-XI/8183, Vasant Kunj, New Delhi - 110070
12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
13 The ICFAI society , 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
14 MS Knowlegde Processing Pvt. Ltd.((Taxmanagementindia.com),FF-19, 1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

15 C.D.R. 16 Office Copy 17 Guard File 18 Second Folder

**Deputy/Asstt. Registrar (CUSTOMS Appeal Branch)**

**NOTE :** The above said matter has been fixed for verification of compliance on ______________ before the Registrar.

DB-D

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. IV**

**Application No. ST/COD/52313/2015-CU(DB)**
**ST/ROM/52312/2015-CU(DB)**
**Appeal No. ST/2138/2012-CU(DB)**

**M/s. Lake Palace Hotels and Motels Pvt. Ltd.** **....Applicants**

**Vs.**

**C.C.E. & S.T.-Jaipur-I** **....Respondent**

**Appearance:**

Shri Karan Sachdeva, Advocate for the Applicants
Shri Amresh Jain, DR for the Respondent

**CORAM:**
**Hon'ble Ms. Archana Wadhwa, Member (Judicial)**
**Hon'ble Shri B.Ravichandran, Member (Technical)**

**Date of Hearing: 11.07.2016**

**MISC ORDER NO. 50817- 50818/2016-CU(DB)**

**Per Archana Wadhwa:**

Revenue has filed present Miscellaneous Application seeking modification in the cause title of the final order no. 54070-54071/2014 dated 17.10.2014. The said final order of the Tribunal disposed of two appeals arising out of orders passed by Commissioner of Central Excise and Service Tax, Jaipur-I and Jaipur-II. Whereas Jaipur-I has been shown as respondent in the cause title, the Jaipur-II Commissionerate has not been reflected. Accordingly, the present modification application stands made by the Revenue.

2. The Ld. Advocate appearing for the assessee fairly agrees to the above proposed rectification in the error.

3. In view of the above we direct that Commissioner of Central Excise and Service Tax Jaipur-II would be also shown as respondent in the cause title of the said order.

4. ROM application is disposed of in the above terms. COD filed by the Revenue also gets disposed of.

[Dictated and pronounced in the open Court]

12.7.16.
**(B.Ravichandran)**
**Member (Technical)**

12/7/16
**(Archana Wadhwa)**
**Member (Judicial)**

Bhanu