

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH

Service Tax Appeal No. 52528 of 2015

[Arising out of Order-in-Original No. 02/GB/ST/2015 dated 27.03.2015. passed by the Commissioner of Service Tax, Delhi II]

**RAIL LAND DEVELOPMENT
AUTHORITY**

... **Appellant**

Near Safdarjung Railway Station
Moti Bagh I,
New Delhi 110021.

Versus

COMMISSIONER OF Service Tax

... **Respondent**

Service Tax Commissionerate,
DELHI II, 2nd Floor, 37, Nehru Place,
New Delhi 110019.

APPEARANCE:

Dr Sanjiv Agarwal, Chartered Accountant for the Appellant
Shri Vivek Pandey , Authorised Representative for the Department

CORAM:

HON'BLE MR. RAJU, MEMBER (TECHNICAL)

HON'BLE MS. RACHNA GUPTA, MEMBER (JUDICIAL)

DATE OF HEARING: February 10, 2021

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FINAL ORDER NO. 51045 /2021

Per Rachna Gupta:

The relevant facts for disposal of the present appeal is that M/s. Rail Land Development Authority (hereafter referred to as RLDA) is engaged in providing taxable service pertaining to commercial development of vacant rail land by construction of multifunctional complexes. During the course of inquiry, the Department observed that despite RLDA is rendering taxable services, they have not got themselves registered with the Service Tax department and thus, they

failed to file periodic ST-3 returns. Accordingly vide Show cause notice No. 500/AE/Group 2/2014-15 dated 17.10.2014, demand of Rs. 1,18,85,18,698/- was raised towards the service tax liability of RLDA for providing taxable service under the category of 'renting of immovable property service'. Interest at the appropriate rent and the respective penalties were also proposed to be levied. The proposal of the show cause notice has been confirmed vide Order-in-Original No. 02/GB/ST/2015 dated 27.03.2015.

2. Being aggrieved the impugned appeal has been filed.

3. We have heard Dr Sanjiv Agarwal, learned Chartered Accountant for the Appellant and Shri Vivek Pandey, learned Authorised Representative for the Department.

4. It is submitted by the learned Counsel for the appellant that RLDA had awarded as many as 13 projects for redevelopment of the vacant land of the railways for construction of multifunctional complexes on long term lease for a period of 45 years except in one case for Sarai Rohilla Railway Station it was for 90 years in favour of M/s. Parsavanath Developers. The total amount of lease premium for these 13 project was Rupees 1052.17 crore and Rupees 990.90 crore with respect to Sarai Rohilla Railway Station.

4.1 It is further submitted that except four out of thirteen of these projects are either terminated or are under litigation. The project of Sarai Rohilla Railway Station has been terminated on 6.8.2015. The termination was challenged under arbitration proceedings. Arbitration Award dated 25 November, 2017 was decided against RLDA. The appeal thereof so filed in High Court was dismissed. Review petition thereafter was also dismissed. Even the SLP as filed by RLDA was also dismissed on 08 July, 2019.

4.2 Learned Counsel has also submitted that order under challenge was announced on 27.3.2015 while the termination of Development Agreement with respect to Sarai Rohilla Railway Station happened on 6.8.2015. Thus the adjudicating authority below had no opportunity to

take into consideration the said termination. Consequent thereto the quantum of demand has to vary. Learned Counsel has accordingly requested for remanding the matter to the adjudicating authority. It is also requested that the decision may be made time bound.

5. The learned Authorised Representative of the Department has impressed upon the liability of appellant under service Tax with respect to all the impugned projects. The non-registration of appellant under service tax has been heavily objected. However, it is acknowledged that Development Agreement with respect to Sarai Rohilla Railway Station has got terminated and that the said termination will have an effect upon quantum of liability. Accordingly, the request of learned Counsel for appellant for remanding the matter for fresh decision has been acknowledged.

6. In view of the same and the grounds brought to our notice, we deem it appropriate that the matter be remanded back to the respective adjudicating authority and order accordingly with the direction to the Adjudicating Authority to re-adjudicate the issue after taking into consideration the termination of the said Development Agreement and subsequent proceedings. It is directed that the adjudication be finalised within a period of six months from the date of receiving the copy of this order.

**(RAJU)
MEMBER (TECHNICAL)**

**(RACHNA GUPTA)
MEMBER (Judicial)**

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