

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

Appeal No. ST/347 /2006 - CU[DB]

Date 12/05/2009

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S MERWARA ESTATE
DAULAT BAGH, AJMER
M/S MERWARA ESTATE

C.C.E. JAIPUR

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. ST/162
2009 CU[DB] dated 29.04.09
passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E. JAIPUR
JAIPUR.
2. Adv. / Consult
MR.BIPIN GARG, ADV
B-1/1289-A VASANT KUNJ NEW DELHI 70
- 3 S.D.R
- 4 J.C.D.R.
- 5 Bar association, CESTAT, New Delhi
- 6 Director Publications, Customs, Excise. I.P. Estate, New Delhi
- 7 M/s Centax Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
- 8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17
- 9 Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.
- 10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
- 11 M/s. Deeparchie Publications. M-93, Marg. 46, Saket, New Delhi 110017
- 12 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kunj, New Delhi - 110070
- 13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
- 14 Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall.Above Star India Bazar, Satellite Road, Ahmedabad-15
- 15 LAWCRUX Advisors Pvt Ltd, LAW House, 1-8, Sector - 10, Faridabad 121003 (Haryana)
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Assistant Registrar
(Customs Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Service Tax Appeal No. 347 of 2006-Cust. Br.

(Arising out of Order-in-Appeal No. 334(HKS)ST/JPR-II/2006 dated 5.6.2006 passed by the Commissioner (Appeals), Central Excise, Jaipur)

M/s Merwara Estates

Appellant

Vs.

CCE, Jaipur

Respondent

Appeared for Appellant : Shri Atul Gupta, C.S.

Appeared for Respondent: Shri Vijay Kumar, DR

Date of Hearing: 29.4.2009

CORAM: HON'BLE DR. C. SATAPATHY, TECHNICAL MEMBER
HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER

Final Order No. 87/162/09 dated.....

Per Dr. C. Satapathy :

Heard both sides.

2. Shri Atul Gupta, ^{Id.} C.S. appearing for the Appellant states that the Appellants are running a hotel which has two gardens adjacent to it. The Appellants are not disputing payment of service Tax when gardens are rented out as Mandaps. The hotel is separately registered and ~~once~~ ^{times} in a year, 16 ^h hotel rooms and garden were simultaneously rented out. It is the Appellant's case that Service Tax is not leviable on that ^{portion} ~~part~~ of the realisation which is attributed to the renting of the hotel rooms.

3. Heard Shri Vijay Kumar, Id. DR appearing for the Revenue who supports the impugned order and cites the decision of the Tribunal in the case of **Rajmahal Hotel Vs. CCE** reported in 2006 (4) STR 370 in support of Department's case.

3. We find that a prima facie view ^{was taken} ~~was taken~~ at the stay stage ^{that} ~~by~~ the Appellants ~~are~~ are not liable to pay Service Tax in respect of the charges recovered for renting of the hotel. The only submission by the Revenue ^{now} is that the cited decision in the case of **Rajmahal Hotel** (supra) supports the Revenue's case. However, we find that the said decision only authorises levy of Service Tax on renting of halls attached ^{to} ~~the~~ hotel but not in respect of renting of the hotel rooms. As such, we confirm ^{the} ~~our~~ prima facie view taken by the Tribunal earlier and set aside the impugned order and allow the appeal.

(Dictated & pronounced in open Court)

(DR. C. SATAPATHY)
TECHNICAL MEMBER

(D.N. PANDA)
JUDICIAL MEMBER

RM