14

TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

CUSTOMS APPEAL BRANCH

Appeal No. ST/1109/2011 - CU[DB]
ST/S/2334/11

Date **06/01/2012**

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

To :
RAMBAGH PALACE HOTELS PVT. LTD.
BHAWANI SINGH ROAD, JAIPUR (RAJASTHAN)
302005

RAMBAGH PALACE HOTELS PVT. LTD. Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/18/ 2012 CU[DB]** dated 21.12.11 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**
Alongwith stay order no. ST/S/45/12

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E. JAIPUR I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.

2. Adv. / Consult
MR.R MURALIDHARAN (CONSULTANT)
BUILDING NO. 10,18TH FLOOR, TOWER C,
DLF CYBER CITY, GURGAON-122002

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd.,1512-B, Bhishm Pitamah marg,Opp. ICICI Bank of Defence Colony, New 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
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.KPuram, New Delhi-110066

Date of hearing/decision:21.12 .2011

Stay Petition No.2334 of 2011 and
Customs Appeal No.1109 of 2011

Arising out of the order in appeal No.172 (DKV) Service Tax/JPR 1/2011 dated 26.4.2011 passed by the Commissioner of Customs & Central Excise (Appeals-I), Jaipur.

For Approval and Signature:

Hon'ble Mrs.Archana Wadhwa, Judicial Member
Hon'ble Mr. Rakesh Kumar, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 26 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

M/s Rambagh Palace Hotels Pvt. Ltd. ... Appellants

Vs.

C.C.E., Jaipur .. Respondent

Appearance:

Shri R. Murlidharan,Advocate for the appellants/applicants
Shri R.K.Gupta, A.R. for the respondent

Coram: Hon'ble Mrs. Archana Wadhwa, Judicial Member
Hon'ble Mr. Rakesh Kumar Technical Member

Final Oral Order No. ST/A/18/12-Cus.
Stay order No. ST/S/45/12-Cus.

Per Mrs. Archana Wadhwa:

After dispensing with the condition of pre-deposit of service tax and penalty ,we proceed to decide the appeal itself with the consent of both sides, inasmuch as the disputed issue stands decided by the precedent decision of the Tribunal.

2. After hearing both sides, we find that the appellant is engaged in providing Mandap Keeper and Convention Service as defined under Section 65 of Chapter V of the Finance Act, 1994. During the period under dispute, they had discharged their service tax liability on the amount of Banquet charges, Banquet sundries and Banquet food. Inasmuch as the appellant had not discharged the service tax on the value of the room charges booked by them for the purpose of such marriage, conference, meetings etc. the Revenue entertained a view that such room charges are liable to be included in the value of mandap keeper service and accordingly, initiated proceedings against the appellant by way of issuance of SCN invoking longer period of limitation. The said SCN culminated into an order passed by the original adjudicating authority and upheld by the Commissioner (Appeals). Hence the present appeal.

3. On going through the order of the Commissioner (Appeals), we find that he has held that the value of renting charges from customers in respect of the rooms booked by the appellants for the purpose of marriage , conference and meetings under the composite contract are required to be included in the value of the mandap keeper services and the service tax is required to be discharged on the entire value. He held that renting of rooms is covered under the category of Mandap Keeper Service. He further observed that rooms provided by the appellants even for temporary stay to the customers for organizing marriage conference and meetings is covered under the definition of Mandap Keeper and any consideration received by the appellant on this account is also includible in the consideration received against

mandap keeper service. He also upheld the invocation of the longer period of limitation on the ground that the appellant has not intimated the fact of recovering the amount on account of renting of rooms and has suppressed the same with intent to evade payment of service tax.

4. After hearing both sides we find that the Tribunal in the case of Merwara Estate vs. C.C.E., Jaipur reported in 2009 (16) STR 268 (Tri-Del.) has held that renting ~~of halls~~ of hotel rooms cannot be held to be covered by the definition of 'Mandap Keeper' inasmuch as the hotel has an identity, personality and function quite distinguishable from that of a mandap. In any case, we find that the activity of giving hotel rooms to the customers, who might organise function in the hotel is an activity entirely different from the mandap keeper activity. The definition of Mandap Keeper nowhere covers the temporary occupation of hotel rooms for the purpose of boarding, temporary residence. It is not disputed that no function is held in the hotel room which is used for the purpose of staying in the same. As such, we are of the view that the order of the lower authorities holding inclusion of the hotel rooms rent into the value of Mandap Keeper Service is not sustainable. The same is accordingly set aside and the appeal is allowed with consequential relief to the appellant.

(Archana Wadhwa)
Judicial Member

(Rakesh Kumar)
Technical Member

scd/