14.

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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

Appeal No. ST/706 /2007 - CU[DB] Date **19/01/2012**

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

To :
C.C.E. LUDHIANA

CENTRAL EXCISE HOUSE, 'F' BLOCK,
RISHI NAGAR, LUDHIANA 141001 (PUNJAB)

C.C.E. LUDHIANA Appellant

Vs

M/S BAHIA FORT HOTEL Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/64/ 2012 CU[DB]** dated 12.01.2012 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
M/S BAHIA FORT HOTEL
MALL ROAD, BHATINDA,
PUNJAB

2. Adv. / Consult
MR.BIPIN GARG
B-1/1289,A-VASANT KUNJ,
NEW DELHI 110 070.

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)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. II

DATE OF HEARING : 12/01/12.

Service Tax Appeal No. 706 of 2007

CCE, Ludhiana — Appellant

Versus

M/s Bahia Fort Hotel — Respondent

Appearance

Shri R.K. Gupta, Authorized Representative (DR) – for the appellant.

Ms. Sukriti Das, Advocate – for the Respondent.

CORAM: **Hon'ble Shri D.N. Panda, Judicial Member**
Hon'ble Shri Rakesh Kumar, Technical Member

Final Order No. ST/A/64/12-cus Dated : 12.1.12.

ORDER

Per. D.N. Panda :-

Revenue is in appeal against the first Appellate order granting relief invoking the Notification benefit under No. 12/2001-ST dated 20th December 2001. According to Revenue if the catering aspect is not included in the assessable value, Revenue shall be prejudiced. Hence, order of the first Appellate Authority is required to be reversed.

2. Learned Counsel for the respondent says that since they provide catering service they are entitled to the notification benefit.

3. Heard both sides and perused the records.

4. We are unable to understand why both sides are under controversy for most confusing order passed by both the authorities below. Readjudication is desirable on the basis of the allegation made, law applicable to the material facts and evidence led. On totality of consideration of factual aspect, we are of the opinion no order is before us about examination of catering aspect and inclusion thereof in Assessee value by any of the authorities below. Therefore, we remand the matter to the learned Adjudicating Authority with the following directions :-

(i) The authorities shall take advantage of reading the order passed by the Tribunal in the case of **Sayaji Hotel Ltd. vs. CCE, Indore** reported in **2010 (20) S.T.R. 485 (Tri. – Del.)** and do the needful.

(ii) The respondent should be given proper opportunity for explaining against the allegation made in the show cause notice ;

(iii) Re-adjudication order should clearly depict what was the allegation through show cause notice ;

(iv) The pleadings, evidence led and arguments made by respondents shall also be properly recorded in the order ;

(v) The Adjudicating Authority shall pass reasoned and speaking order.

4. Since Tribunal has already decided the controversy resolving manner of determination of assessable value while dealing the case of **Sayaji Hotel Ltd. vs. CCE, Indore** (supra), there is no necessity to reiterate the principles laid down therein when the matter has already been reported, as aforesaid.

(Dictated and pronounced in open court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK