

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
New Delhi

PRINCIPAL BENCH – COURT NO. 3

Service Tax Appeal No. 51435 Of 2022

[Arising out of Order-in-Appeal No. 45(SM)/ST/JPR/2022 dated 28.02.2022 passed by the Commissioner (Appeals) of Central Excise and CGST, Jaipur]

M/s Jyotsna Vaults

: Appellant

1285, Ghinsi Bhawan, Gopalji Ka Rasta
Johri Bazar, Jaipur

Vs

**Principal Commissioner of Central Goods
Service Tax, and Central Excise, Jaipur**

: Respondent

NCR Building, Statute Circle, C-Scheme,
Jaipur-302005 (Rajasthan)

APPEARANCE:

Ms. Neha Somani, Chartered Accountant for the Appellant

Shri Mahboob Ur Rehman, Authorized Representative for the Respondent

CORAM :

HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)

HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER No. 50377/2026

Date of Hearing: 26.02.2026

Date of Decision: 26.02.2026

HEMAMBIKA R. PRIYA

The present appeal has been filed by M/s Jyotsna Vaults¹ to assail the Order-in-Appeal No. 45(SM)/ST/JPR/2022 dated 28.02.2022 wherein the Commissioner confirmed the demand of Rs. 82,899/- alongwith interest and appropriate penalties.

2. The brief facts of the case are that the appellant was registered under Service Tax Department vide Reg. No. 52/ST/BFS/R-1/2004 and engaged in providing private locker services as defined in

1 **the appellant**

erstwhile section 65(12) read with section 65(105) (am) of the Finance Act, 1994. The lockers were given on hire by the appellant on payment of hire charges (locker rent) and deposit of refundable non interest security deposit. While locker rent was an income for appellant, security deposit was a current liability and disclosed as such only in books of accounts and financial statements (Balance Sheet) as non-interest bearing and refundable deposit. The Department formed a view that the appellant was not paying Service Tax on the consideration received against renting of lockers and such interest free security. Show cause notice dated 22.04.2020 issued to the appellant for the period, 1st April, 2017 to 30th June, 2017. The Order-in-Original held that the appellant apart from renting out the property to the lessee (tenant) locker rent of Rs. 2,36,400/- had earned notional interest of Rs. 3,16,257/- for the period from April, 2017 t Jun, 2017 and thus, have short paid Service Tax amounting to Rs. 82,899/- . The Commissioner (Appeals) vide Order-in-Appeal No. 45(SM)/ST/JPR/2022 dated 28.02.2022 upheld the order-in-original. Being aggrieved, the appellant has filed the present appeal.

3. Learned Chartered Accountant for the appellant submitted that the respondent had levied service tax on a deemed transaction (notional interest) on refundable security deposit without invoking the charging Section 668 of the Finance Act, 1994. Since there was no taxable activity leading to a consideration, there was no question of any service tax which can be levied in absence of an event attracting charging section. She submitted that the respondent had also not

considered the applicable statutory provisions for the period w.e.f. 1.07.2012 and failed to recognize the fact that as per clause in of Section 66D of Finance act, 1994 "negative list of services" included any such services wherein moneys due are allowed to be used or retained on payment of interest or at discount. This would cover any facility by which an amount of money is lent or allowed to be used or retained on payment of interest or a discount. As per the Section 56D, interest on any amount retained would come under the ambit of negative list and no service tax would be chargeable on that. Therefore, in the instant case, interest on refundable security deposit in any form including notional interest if any would not be chargeable to service tax. She submitted that the appellant had never suppressed any information from the Department and submitted the information to the Department as and when demanded by the Department, as such, intention of the appellant was not to suppress the facts or evade the tax. Therefore, in the instant case, the proviso to section 73(1) of the Finance Act, 1994 should not be applicable. In support of her submission, learned Chartered Accountant relied on the decision of the Tribunal in **M/s Jyotsna Vaults & Ors. versus Commissioner, Central Goods & Service Tax, Jaipur²**.

4. Learned Authorized Representative for the Department reiterated the findings in the impugned order. However, he fairly conceded that the issue is squarely covered by the decision in appellant's own case.

5. We have heard the learned counsel for the appellant and the learned Authorized Representative for the Department and have perused the case records.

6. We find that the issue is no more res-integra and is squarely covered by the appellant's own case in **M/s Jyotsna Vaults & Ors. (supra)** wherein it has been held as follows:-

8. The submissions advanced by learned counsel for the appellant and the learned authorized representative appearing for the department have been considered.

9. Section 67 of the Finance Act, as stood at the relevant time, reads as follows:

"67 (1) Subject to the provisions of this Chapter, service tax chargeable on any taxable service with reference to its value shall,-

(i) in a case where the provision of service is for a consideration in money, be the gross amount charged by the service provider for such service provided or to be provided by him;

(ii) in a case where the provision of service is for a consideration not wholly or partly consisting of money, be such amount in money, with the addition of service tax charged, is equivalent to the consideration;

(iii) in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner.

(2) Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.

(3) The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the value shall be determined in such manner as may be prescribed.

Explanation. For the purposes of this section,-

(a) "consideration" includes any amount that is payable for the taxable services provided or to be provided;

(b) "money includes any currency, cheque, promissory note, letter of credit, draft, pay order, travellers cheque, money

order, postal remittance and other similar instruments but does not include currency that is held for its numismatic value;

(c) "gross amount charged includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and 1 book adjustment, and any amount credited or debited, as the case may be, to any account, whether called "Suspense account or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise."

10. A Division Bench of this Tribunal in Murli Realtors, while examining a similar issue, observed as follows:

"6.1 Section 67 of the Act, reproduced in para 4.1 above, clearly provides that only the consideration received in money for the service rendered is leviable to Service Tax. The consideration for renting of the immovable property is the amount agreed upon between the parties and on this amount the appellant is discharging Service Tax liability. **The security deposit is taken for a different purpose altogether. It is to provide for a security in case of default in rent by the lessee or default in payment of utility charges or for damages, if any, caused to the leased property. Thus, the security deposit serves a different purpose altogether and it is not a consideration for leasing of the property. The consideration of the leasing of the property is the rent and, therefore, what can be levied to Service Tax is only the rent charged and no notional interest on the security deposit taken can be levied to tax. There is no provision in Service Tax law for deeming notional interest on security deposit taken as a consideration for leasing of the immovable property.** Therefore, in the absence of a specific provision in law, as held by the Hon'ble Apex Court in the case of Moriroku UT India (P) Ltd. (supra), there is no scope for adding any notional interest to the value of taxable service rendered. Even in the excise law, under Rule 6 of the Valuation Rules, unless the department shows that the deposit taken has influenced the sale price, notional interest cannot be automatically included in the sale price for the purpose of levy. In the absence of a provision in law providing for a notional addition to the value/price charged, the question of adding notional interest on the security deposit as a consideration received for the services rendered cannot be sustained and we hold accordingly."

(emphasis supplied)

11. A perusal of the aforesaid decision of the Tribunal reveals that since the consideration for leasing of the property is rent, so what can be levied to service tax is only rent and notional interest on the security deposit cannot be subjected to levy of service tax.

12. In view of the aforesaid decision of the Tribunal, it has to be held that service tax could not have been levied on the notional interest calculated by the department on the interest fee security deposit collected by the appellant."

7. In view of the settled legal position, we set-aside the impugned order and allow the appeal filed by the appellant.

(Dictated & Pronounced in the open Court)

(BINU TAMTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

G.Y.