CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH – COURT NO.4

SERVICE TAX APPEAL NO. 51691 OF 2021

[Arising out of Order-in-Appeal No. 79-80(SM)/ST/JPR/2021 dated 17.02.2021 passed by the Principal Commissioner (Appeals) of Central Excise & CGST, Jaipur]

Birani Safe Vaults Private Limited : **Appellant**
2283, Ratnaiya Ramiallaiji Ra Rasta
Johri Bazar, Jaipur-302003 (Raj.)

Vs

The Principal Commissioner CGST & Central Excise, Commissionerate Jaipur : **Respondent**
New Central Revenue Building, C-Scheme
Statute Circle, Jaipur

APPEARANCE:
None for the respondent
Shri Vivek Kumar Jain, Authorised Representative for the Respondent

CORAM :

HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER No. 50700/2026

Date of Hearing:01.04.2026

Date of Decision:01.04.2026

DR. RACHNA GUPTA

None is present for the appellant nor there is any request seeking adjournment. Resultantly, there is no reason placed before us about appellant's absence, hence, we refrain ourselves to adjourn the matter any further, and decide the appeal in accordance of directions of Hon'ble Supreme Court in the case of **Balaji Steel Rolling Mills** versus **Commissioner of Central Excise, Customs,** reported as 2014 (310) ELT 209.

2. We have heard the learned DR.

3. It is mentioned that on last date of hearing, the issue was wrongly mentioned to be recorded relating to the amount of royalty. The issue in the present appeal is with respect to the taxability amount of notional interest gained by the appellant on the amount of refundable security deposit received while renting out the safe deposit lockers.

4. Having heard and perusing the appeal memo, we observe that the appellant was engaged in providing services of 'Renting of Deposit Lockers' covered under 'Banking and other Financial Services' and also providing 'Renting of Immovable Property Service'. Annual locker rent was being received by the appellant from their clients. Apart from annual rent, the appellant was also collecting refundable security amount. The notional interest earned on said security amount was being used by the appellant in day-to-day running of their business of renting lockers. The department formed an opinion that the activity rendered by the appellant is the 'Taxable Service' being defined under Section 65 (12) of the Finance Act, 1994. The amount of notional interest was much more than the amount of annual interest but was not included while discharging service tax on the annual rent. Hence, the appellant was alleged liable to pay service tax on the total amount of annual rent, and amount of notional interest received during the period April 2013 to June 2017. Accordingly, vide show cause notice No. 11/2018/5264 dated 24.09.2018, service tax amounting to Rs. 11,79,045/- on the amount of notional interest of Rs. 87,27,687/- being an additional consideration of security deposit received during the period April 2013 to June 2017 was proposed to be recovered along with interest at appropriates rates and the proportionate

penalties. The said proposal was confirmed vide Order-in-Original No. 11/2018 dated 06.12.2019. Appeal against the said order has been rejected vide Order-in-Appeal No. 79-80/2021 dated 17.02.2021. Being aggrieved, the present appeal has been filed.

5. We have perused the contention of the appellant mentioned in Para 4 of the Grounds of Appeal in the Appeal Memo. It is mentioned as below:-

> "4. there is no dispute about the fact that the notional Interest earned by the Notices on the amount of Security deposits received from the Customers did not have any effect on the Annual Rent charges for renting out Safety deposit Lockers and while fixing the rent charges for renting out Safety Deposit Lockers, the amount of Notional Interest to be earned by the Notices was not taken into consideration. In view of this fact, the Notices were under a bonafide belief that as the said amount of Notional Interest had no nexus with determination of the amount of rent charged by the Notices from the customers, the said Notional Interest was not to be considered any additional consideration received by the Notices and was not liable to be included in the taxable value of renting out the Safety deposit Lockers under section 67 of the Finance Act, 1994. Under this bonafide bellef the Notices did not include the amount of notional interest if the taxable value for payment of Service Tax under the category of renting out Safety Deposit Lockers."

6. We have also observed that the appellant has paid service tax on the amount of annual rent received for renting the safe deposit lockers. Department has not disputed the same. We also observe that issue of taxability on the amount of notional interest earned out of amount of security deposit, refundable, received by the appellant while renting out lockers has already been adjudicated. It is no more res-integra being already decided in favour of the appellant. This Tribunal, the Principal Bench, in appellant's own case **M/s Birani Safe Deposit Vaults Private Limited & Ors.** versus **Commissioner, Central Goods and Service Tax** vide Final Order Nos. 51400-51404 of 2023 dated 29.09.2023 has already held that the consideration for leasing of property in the case of impugned

arrangement is nothing but 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. This decision has relied upon the earlier decision in the case of **Murli Realtors Private Limited** versus **Commissioner of Central Excise, Pune-III** reported as **2015 (37) STR 618 (Tri.-Bom)** wherein it was held 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 & 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."
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> **(emphasis supplied)**

7. In the light of the afore discussed decisions and that we find no other fact of the present appeal as a distinguished fact, we do not have any reason to differ from those findings. Resultantly, it is held that Commissioner (Appeals) has wrongly confirmed the demand of service tax on the amount of notional interest received by the

appellant. Commissioner (Appeals) is held to have violated the judicial protocol. The order under challenge (Order-in-Appeal dated 17.02.2021) is accordingly, set-aside and the appeal stands allowed.

(Dictated & pronounced in the open Court)

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

G.Y.