CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNA,
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI.

Date of Hearing/Decision:19.05.2017

Service Tax Appeal No.56941/2013-SM

[Arising out of Order-in-Appeal No.117(RDN)ST/JPR-II/2012 dated 11.10.2012 passed by the Commissioner (Appeals), Central Excise, Jaipur-II]

M/s.Marudhar Hotels Pvt. Ltd. ….Appellant

Vs.

CCE, Jaipur-II …Respondent

Appearance:Shri Abhinav Gupta, Shri Puneet Jain and Ms.Priyal Jain,Advocates
Ms. K. V. Kumar, DR for the respondent/Department

Coram: Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No.53505/2017

Per B. Ravichandran:

The appellants are engaged in providing taxable services under the category of "Mandap Keeper Services". They are duly registered with the Department and discharging service tax liability.

2. The dispute in the present appeal is with reference to liability of the appellant to pay service tax in respect of considerations received towards room rents for the rooms booked with reference to wedding ceremony. The Revenue entertained a view that the service recipient booked marriage garden attached to

the hotel of the appellant for marriage. At the same time, they also booked rooms in the appellant's hotels for visitors and guests for their temporary stay in connection with marriage. The considerations received towards that room rent was sought to be added in the value of the taxable service under the category of "Mandap Keeper Services". The lower authorities held that for the marriage, the guests would not have visited and stayed in these rooms and accordingly, renting of room is in connection with "Mandap Keeper Services" only. The service tax liability of Rs.44,07,586/- was confirmed against the appellant along with penalties under Section 76 and 78 of the Finance Act, 1994. On appeal, by the impugned order, the Commissioner (Appeals) upheld the original order, except for setting aside the penalty imposed under Section 76.

3. Ld. Counsel for the appellant submitted that they have discharged service tax on the considerations received towards renting of marriage garden under the category of "Mandap Keeper Services". They are also running a hotel with many rooms, which are rented out for temporary occupation of guests. The room rents collected cannot be taxed under the category of "Mandap Keeper Services" even if some of the rooms were occupied by the guests, who visited for the marriage and the rent is paid by the person, who hired the marriage garden for marriage. Renting out the marriage garden is the different activity from renting out of rooms in the hotel. The temporary renting out of rooms for the guests cannot be taxed under the

category of “Mandap Keeper Services”. He relied on the decided cases of the Tribunal in similar set of facts.

4. Ld.AR reiterated the findings of the lower authorities.

5. Heard both the sides and perused the appeal records.

6. It is seen that same set of facts were subject matter of decision by this Tribunal earlier. By the Final Order No.52293-52295/2017 dated 10.03.2017, the Tribunal held that letting out of the rooms in the hotel cannot be included in the “Mandap Keeper Services” for service tax liability. The relevant portion of the decision is reproduced below:-

> “5. We have heard both the sides and perused the appeal the records. We find that the department held the view that the charges collected for letting out rooms for accommodating guests has to be added in the gross value for the purpose of service tax liability under “Mandap Keeper Services”. The only reason is that the person who hired the mandap /garden area has also booked some rooms for accommodating the guests. We find the reasons adopted by the lower authorities is without legal basis. The Tribunal examined similar set of facts and held that such room charges for letting out the rooms in the hotel cannot be included in the ‘Mandap Keeper Service’ for service tax liability. Reference can

be made to the decision of the Tribunal in the case of Rambagh Palace Hotels Pvt. Ltd. Vs. Commissioner of Central Excise, Jaipur, 2013 (31) S.T.R 480 (Tri. – Del). The Tribunal observed as below:

"After hearing both sides we find that the Tribunal in the case of Merwara Estates V. C.C.E., Jaipur reported in 2009 (16) S.T.R. 268 (Tri. – Del.) has held that renting 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 organize function in the hotel is an activity entirely different form the mandap keeper activity. The definition of Mandap Keeper nowhere covers the temporary occupation of hotel rooms or the purpose of boarding, temporary residence. It is no 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".

6. Following the above ratio, we find that the impugned order is not sustainable. Accordingly, the same is set aside and the appeals of appellant-assessee are allowed. The appeal filed by the Revenue is dismissed. The cross objection is also disposed of."

7. Following the above ratio of the cited decision, I find that the impugned order is without merit. Accordingly, the same is set aside. The appeal is allowed.

[Order dictated & pronounced in open court]

(B. Ravichandran)
Member (Technical)

Ckp.