CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. III

SERVICE TAX APPEAL No. 54142 OF 2018

(Arising out of Order–in-Appeal No. 1086-CRM-ST-JDR-2018 dated 03.10.2018 passed by COMMISSIONER OF CENTRAL EXCISE-Udaipur)

M/s. Jag Mandir Palace **...Appellant**
City Palace, City Palace Complex,
Udaipur,
Rajasthan

Versus

Commissioner of Customs,
Central Excise, Udaipur **....Respondent**
142-B, Hiran Nagari,
Sector-11, Near Shahi Bagh,
Udaipur

APPEARANCE:
Mr. Anurag Kapur, Advocate for the Appellant
Mr. K. Poddar, Authorised Representative for the Respondent

CORAM : HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)

Date of Hearing/ Decision: **31.07.2019**

FINAL ORDER No.: 51061/2019

ASHOK JINDAL

Heard the parties.

2. It is a case where the penalty has been imposed on the appellant under Section 76 and 78(1) of the Finance Act 1994.

3. The facts of the case are that the appellant has mis-calculated the taxable value of the services provided by them and paid the service tax accordingly. For the earlier period, the

Commissioner (A) hold the method of calculation by the appellant is correct and dropped the proceedings. The said order was challenged by the Revenue before this Tribunal but the amount involved was within the monitory limit of the litigation policy, therefore, the appeal was withdrawn. For the period in question the issue of calculation of taxable value of service arises where the authorities below held against the appellant and also imposed the penalty. The appellant is not contesting to the demand of the service tax but is contesting the penalty by way of this appeal.

4. Considering the facts that earlier the method of calculation adopted by the appellant was found to be correct, in these circumstances, penalties under section 76 and 78(1) of the Finance Act 1994 are not imposable as appellant has been able to prove their bonafides.

5. In these circumstances, the penalties imposed on the appellant are set aside. In the result, appeal is allowed.

(order dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Bhanu