

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH – COURT NO. III

SERVICE TAX APPEAL NO. 50855 OF 2020

[Arising out of Order-in-Appeal No. 420(CRM)/ST/JPR/2019 dated 27.11.2019 passed by the Commissioner (Appeals), Central Excise and Central Goods & Services Tax, Jaipur]

M/s. JYOTSNA VAULTS

1285, Ghinsi Bhawan, Gopal Ji
Ka Rasta, Johari Bazar, Jaipur-302 003
(Rajasthan)

...APPELLANT

Versus

**COMMISSIONER OF CGST & CENTRAL
EXCISE- COMMISSIONER, CGST & CENTRAL
EXCISE-JAIPUR I**

NCR Building, Statue Circle,
C – Scheme, Jaipur-302 005
(Rajasthan)

...RESPONDENT

APPEARANCE:

Ms. Neha Somani, Chartered Accountant for the appellant
Shri Anand Narayan, Authorised Representative for the respondent

CORAM:

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

Date of Hearing: 03.07.2025
Date of Decision : 11.07.2025

FINAL ORDER NO. 50998/2025

BINU TAMTA:

1. The issue for consideration is whether the Department could have charged service tax on the notional interest towards 'security deposit' taken by the appellant against the renting of safe deposits and private lockers.

2. Both sides agree that the issue is no longer *res integra* and has been decided in several decisions of the Tribunal, including the case of the appellant for the earlier period.

3. The Tribunal in the case of the appellant for the period April, 2012 to March, 2015 held that service tax cannot be levied on the notional interest on the security deposit, collected by the appellant and hence the impugned order levying the service tax was set aside and the appeal was allowed. The present appeal relates to the subsequent period from April, 2015 to March, 2017 and the charge in the show cause notice that the notional interest earned by the appellant on the security deposit while renting the locus is taxable to service tax under Section 65(12) providing for "Banking and other Financial Services". The show cause notice was confirmed by the Adjudicating Authority holding that the assessee did not pay service tax amounting to Rs.6,10,238/- on the total value of taxable service, which includes the amount on account of additional consideration and hence the said amount is chargeable to service tax. The appeal filed by the appellant was rejected by the impugned order¹ relying on the decision of the Commissioner (Appeals) in the case of the appellant.

4. While holding that the present case is covered by the decision in their own case, we would like to refer to the observations made by the Tribunal in the case of **Murli Realtors Pvt. Ltd. Vs. Commissioner of Central Excise, Pune-III**², where the Department added notional interest @ 18% p.a on the interest free security deposits received by the appellant at the time of "Renting of

¹ Order in Appeal No. 420(CRM)/ST/JPR/2019 dated 27.11.2019

² 2015(37) S.T.R. 618 (Tri. Mumbai)

the Immovable Property". The Bench observed that section 67 of the Act clearly provides that the consideration received in money for the services rendered is leviable to service tax and, therefore, the consideration for "Renting of the Immovable Property" agreed upon between the parties, is leviable to service tax and the appellant is discharging its liability. The relevant para is quoted below :-

"6.1 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."

5. Considering the facts of the present case, we find that the appellant had not disputed their liability to pay service tax on the rental amount of the property as they are paying service tax on the same and therefore the dispute is limited regarding the liability to pay service tax on the notional interest earned by them on the amount of security deposits received from the service recipients.

Following the binding precedents referred above, we are of the considered opinion that no service tax can be levied on the appellant in respect of the notional interest earned on the security deposits.

6. Since we have decided the main issue in favour of the appellant, it is not necessary to go into the other grounds of challenge raised in the appeal.

7. The impugned order, therefore, deserves to be set aside and the appeal is, accordingly allowed.

[Order pronounced on 11th July, 2025]

(BINU TAMTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

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