

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**  
**NEW DELHI**

PRINCIPAL BENCH – COURT NO. – IV

**Service Tax Appeal No. 50002 of 2016 [DB]**

[Arising out of Order-in-Original No. UDZ-EXCUS-000-COM-0010-14-15 dated 18.03.2015 passed by the Commissioner of Central Excise, Udaipur]

**M/s. Nagar Parishad**  
Near Collectorate,  
Chittorgarh, Rajasthan

**...Appellant**

*VERSUS*

**Commissioner of Central Excise  
& C.G.ST – Udaipur**  
142-B, Hiran Magari,  
Sector-11, Near Shahi Bagh,  
Udaipur, Rajasthan-313002

**...Respondent**

**APPEARANCE:**

None for the Appellant  
Shri Harshvardhan, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)**  
**HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

DATE OF HEARING: 20.07.2023  
DATE OF DECISION: **03.11.2023**

**FINAL ORDER No. 51493/2023**

**DR. RACHNA GUPTA**

M/s. Nagar Parishad, Chittorgarh is engaged in providing service namely 'Renting of Immovable Property Services.' It came to the notice of the department that local authorities like appellant are not paying service tax in respect of the charges collected under various heads which are covered under Renting of Immovable Property. Hence, the appellant was asked to provide the details of the amount being received by them during the period 2008-09 to 2012-13. From the examination of the information/documents provided by the appellant, the department

noticed that during the aforesaid period from 01.04.2008 to 31.3.2013, appellant had received payouts on account of against transfer fee, forfeit charges, tamir izazat, annual lease, rent of shops and other rent amounting to Rs.5,83,46,864/-. As such the appellant was observed to be liable to pay the service tax amounting to Rs.64,16,499/-. Resultantly, vide Show Cause Notice No. 351/2013 dated 22.10.2013, the aforesaid amount of Rs.64,16,499/- along with the proportionate interest and the appropriate penalties under Section 75, 76, 77 and 78 of the Finance Act, 1994 was proposed to be recovered. The said proposal has been confirmed vide the Order-in-Original No. 0010-14-15 dated 18.03.2015. Being aggrieved, the appellant is before this Tribunal.

2. None was present for the appellant. Since it was observed that not even once the appellant had appeared and that several opportunities have been given to await the presence of the appellant after issuance of fresh notices repeatedly. Accordingly, the further adjournment was declined vide Order dated 20.07.2023. The arguments on behalf of the department were heard and the appeal was reserved for orders.

3. Learned DR while submitting the arguments has mentioned that the issue involved is no more *res integra*. He relied upon the decision of Hon'ble Apex Court in the case of **Krishi Upaj Mandi Samiti Vs. Commissioner of C.Ex. & S.T., Alwar reported as 2022 (58) GSTL 129 (SC)**.

4. We have perused the entire records and the decision relied upon by the department. We observe and hold as follows:

From the appeal memo, it is apparent that appellant has mentioned itself to be a local body created under Article 243Q of the Constitution of India to discharge the constitutional obligations and the sovereign duties. One of the grounds of appeal is that the Revenue has failed to consider the fact that the appellant is a municipality and its duties are well covered under the provisions of Section 66D of the Finance Act (the negative list). It has also been submitted that the income generated by the appellant are the compensatory mechanism for which the constitutional powers are given under Article 243W read with Schedule XII of the Constitution of India. The order is prayed to be set aside for the ignorance of the said facts.

5. From the decision as relied upon by learned DR, we observe that initially this Tribunal vide its **Final Order No. 53436-53500/2017 dated 25.05.2017 in the case of M/s. Krishi Upaj Mandi Samiti** has decided the issue of taxability. The relevant para is as follows:

*"14. We have examined the scope of entry in the negative list along with various clarifications issued by the Government. On harmonious construction of all material facts on record, we find that the appellants are not liable to service tax on shops/ sheds/platforms/land leased out in the notified market area for traders for temporary storage of agricultural produce traded in the market. In respect of shops, premises, buildings, etc. rented/leased out for any other commercial purpose other than with reference to agricultural produce (like bank general shop etc.), the same shall not be covered by the negative list and the appellants shall be liable to service tax."*

6. This decision has been upheld by the Hon'ble Apex Court in **Krishi Upaj Mandi Samiti (supra)** of Year 2022. Otherwise also, it is observed that the appellant had admitted their tax liabilities. In view of the said settled provision and the admission of the appellant for his liability, we do not find any infirmity in the order confirming the impugned demand. Since the appellant had never declared the fact of the income received by renting of immovable property which was purely and admittedly for the purposes of commerce, we do not find any infirmity in the order imposing penalties under Section 75, 76, 77 and 78 of the Finance Act. Though the appellant claimed the benefit under Section 80 but we do not find any reasonable cause with the appellant justifying the non-payment of service tax on the income which was being received for a long period of 5 to 6 years from renting of immovable properties, also the amount of service tax as confirmed against the appellant was not paid along with the interest in full within the stipulated time. Hence, we do not find any reason to extend the benefit of Section 80 of the Act to the appellant. With these findings, we uphold the order under challenge. Resultantly, the appeal stands dismissed.

[Order pronounced in the open court on **03.11.2023**]

**(DR. RACHNA GUPTA)**  
**MEMBER (JUDICIAL)**

**(P.V. SUBBA RAO)**  
**MEMBER (TECHNICAL)**