

OFFICE OF ESTATE OFFICER, BHARAT MANDAPAM, NEW DELHI

In the matter of:

India Trade Promotion OrganisationPetitioner

Vs.

M/s. Bhayana Tents & DecoratorsRespondent

Present: Mr. Khalid, counsel and Mr. Lovenish Kr. Chadha, AM
on behalf of petitioner

Mr. Raghav Mehdiratta and Mr. Saksham, Counsel on behalf of
respondent

Further arguments on the heads, i.e., service tax and property tax were heard. Ld. Counsel for the petitioner submitted that there was an amendment in the Finance Act, 2007 and the matter went upto Hon'ble Supreme Court. Ld. Counsel for the respondent submitted that in 2015 when this Forum sought clarifications on the subject of service tax, no document was produced and even when the appeal was filed. Ld. Counsel for the respondent further submitted that Ld. Estate Officer vide its order dated 6.7.2015 has already recorded that there is no documentary evidence from the petitioner. It was directed to the petitioner to clarify the applicability of the service tax on the respondent and its effective date and the period including any payment received in respect of service tax from respondent.

On the point of property tax, Ld. Counsel for the petitioner argued that respondent is liable for both open as well as covered area, i.e, 3140 sq.mtr area (covered + open area). Ld. Counsel for the petitioner further argued that they have paid the consolidated payment to the MCD. However, respondent denied the same and argued that they are liable only for structured area as per Clause G2 of the agreement. Ld. Counsel for respondent further argued that the revised rates were not applicable to them according to agreement. Ld. Counsel for the respondent mentioned that out of 3140 sq. mtr, structured area is 871 sq. mtr. only and petitioner has demanded for revised rate in 2008 effective from 1.4.2004. Ld. Counsel for the respondent mentioned that in the petition, petitioner had no where shown that they had paid the amount on behalf of Bhayana Restaurant (Vatika) towards property tax. Respondent further mentioned that in an RTI reply dated 22.4.2010, Rs.7,83582/- has been paid on behalf of Bhayana Restaurant (Vaktika) till 2010 from 2004. Ld. Counsel for the respondent further mentioned that Rs.4,31,778/- has been paid. Ld. Counsel for the respondent further mentioned that as per Limitation Act, they are not liable for the payment on revised rate even on structured area. They will make payment which is within the limitation period, even though MCD had revised the rates retrospectively.

The matter is fixed for further/final arguments on 25.10.2024 at 3.30 pm.


Estate Officer
30.09.2024

File No.137/EST/2010(Recovery-I)

