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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH: HYDERABAD
1st Floor, HMWSSB Building, Rear Portion, Khairathabad, Hyderabad
Tele No: 040-23312247, Fax No: 040-23312246

Dated: 15/03/2022

To

Alpine Estates Alpine Estates
(Appellant as per address in table below)

Commissioner of Central Tax and Central Excise, Secunderabad GST Commissionerate-Secunderabad - G
S T
(Respondent as per address in table below)

Stay/Misc Order No. M/30226/2022 dated 11/03/2022

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.

Deputy Registrar

Application	Appeal	Name and Address of Appellant
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1	ST/ROM/30052/2020 ST/27015/2013	Alpine Estates 5-4-187/3 & 4, 2nd Floor, M.g.road, SEUNDERABAD AP-500003
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Name and Address of Respondent

2

Commissioner of Central Tax and Central Excise, GST Commissionerate- Secunderabad - G S T KENDRIYA SHULK BHAVAN, L.B STADIUM ROAD, BASHEERBAGH HYDERABAD TELANGANA-500004

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6. Advocate^(s)/ Consultant^(s)/ Representative:-

Hiregange & Associates Chartered
Accountants (New)
4th Floor, West Block,
Anushka Pride, Opp. Ratnadeep
Supermarket, Road Number -12,
Banjara Hills,
Hyderabad,
Telangana-500034

Deputy Registrar

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH AT HYDERABAD**
Division Bench
Court - I

**Misc Application No. ST/ROM/30052/2020
in Service Tax Appeal No. 27015 of 2013**

(Arising out of Order-in-Appeal No.38/2013 (H-II) S. Tax dt.27.02.2013 passed by
Commissioner of Customs, Central Excise & Service Tax (Appeals-II), Hyderabad)

Alpine Estates

5-4-187/3 & 4, 2nd Floor, MG Road,
Secunderabad, Hyderabad - 500 003

.....Appellant**VERSUS****Commissioner of Central Tax,
Secunderabad - GST**

Kendriya Shulk Bhavan, LB Stadium Road,
Basheerbagh, Hyderabad - 500 004

.....Respondent**Appearance**

Shri Venkata Prasad, CA for the Appellant.

Shri A. Rangadham, Authorized Representative for the Respondent.

Coram:**HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)****HON'BLE MR. P. VENKATA SUBBA RAO, MEMBER (TECHNICAL)****MISCELLANEOUS ORDER No. M/30226/2022****Date of Hearing: 28.02.2022****Date of Decision: 11-3-2022****[Order per: P. VENKATA SUBBA RAO.]**

1. This application has been filed by the applicant under Section 35C of the Central Excise Act seeking rectification of alleged mistakes in the Final Order No. A/30699/2019 dated 19.06.2019 by which the matter was remanded for de novo adjudication. Paragraph 5 of the Final Order dated 19.06.2019 reads as follows:

"5. After hearing the submissions of learned A.R. we are of the view that the matter requires to be reconsidered as to whether the amounts included in the sale-deed value of immovable property would be subject to levy of service tax under construction services. The computation in the order-in-original has to be looked into on the basis of the sale-deed executed by the appellant with customer which includes the semi-finished flat. Other charges like registration fee, VAT, etc. needless to say will not be subject to service tax as being reimbursable expenses."



PVK

2. According to the applicant, it appears from the above paragraph of the order that the matter was remanded for reconsideration as to whether the amounts included in the sale deed value would be subject to levy of service tax under construction services. It is submitted that the above referred paragraph does not reflect the decision in the open Court and is an apparent mistake in the face of record which needs to be rectified.

3. Learned Chartered Accountant for the appellant submits that in paragraph 7 of SCN (Show Cause Notice) dated 23.04.2011 and paragraph 3 of the impugned order dated 24.04.2012, it was alleged that the amounts received by the appellant towards construction under the agreements after executing the sale deeds are chargeable to Service Tax. However, while quantifying the demand, the SCN and the Order-in-Original had erroneously included the value of sale deeds and the reimbursements such as VAT, registration charges, etc., as the same was not part of the allegation in the SCN. He submits that after the matter was remanded by the Tribunal in its Final Order, the learned adjudicating authority has expressed a doubt as to whether the direction in the Final Order is for reconsideration as to whether the sale deed value is also subject to service tax. Learned Chartered Accountant therefore, prays that the Final Order may be modified.

4. We have gone through the application for rectification of mistake and have perused the Final Order. We do not feel there is any error apparent on record. The Final Order must be read as a whole. The direction in the Final Order was neither to go beyond the scope of the SCN nor to consider levying service tax on sale deed



value of immovable property. If the Final Order is read as a whole, it would be clear that the matter has been remanded for the purpose of computing the demand of service tax after 01.07.2010 and also reconsidering the penalty for this period and NOT to consider levying/charging Service Tax on value of sale of the property. The demand for the period prior to 01.07.2010 has already been set aside in the Final Order. Paragraph 17 of the impugned order of the Commissioner also indicates that the demand was only in respect of the service contract entered into after the sale deed has been executed and not on the sale value of the immovable property. This was also reproduced in paragraph 4 of the Final Order.

5. In view of the above, we find that there is neither any error apparent on record nor is there any direction to the Commissioner in the Final Order to go beyond the scope of SCN and demand service tax on the value of transfer of immovable property. The appeal was partly allowed up to 01.07.2010 and partly remanded for the period after 01.07.2010 for reconsideration of both the demand and the penalty. The application for rectification of mistake is accordingly dismissed.

(Pronounced in the open court on 11-3-2022)

- Sd -

(P.K. CHOUDHARY)
MEMBER (JUDICIAL)

- Sd -

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

प्रमाणित प्रति / CERTIFIED COPY

Veda

उप पंजीकार / Dy. Registrar
सीमाशुल्क, उत्पादशुल्क और सेवा का अपील अधिकरण
Customs Excise And Service Tax Appellate Tribunal
हैदराबाद / Hyderabad