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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010433782019**

\+ W.P.(C) 11633/2019, CM APPL. 47813/2019, CM APPL. 5892/2025 and CM APPL. 46527/2026

RIVERIA COMMERCIAL DEVELOPERS LIMITED. .....Petitioner

Through: Mr. Sujit Gosh, Sr. Adv. along with Ms. Mannat Waraich, Mr. Ajinkya Tiwari and Ms. Aakanksha Bajoria, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Vedansh Anand, SPC along with Mr. Shivam Kumar, Adv.
Ms. Manisha Agarwal Narain, CGSC.
Ms. Vaishali Gupta, PC.
Mr. Harpreet Singh, SSC along with Mr. Jatin Kumar Gaur, Adv.

\# **CNR No. DLHC010207892020**

\+ W.P.(C) 4683/2020, CM APPL. 16846/2020 and CM APPL. 71248/2024

DELHI INTERNATIONAL AIRPORT LTD .....Petitioner

Through: Mr. Taun Gulati Sr. Adv. along with Mr, Sparsh Bhargava, Ms. Vanshika Taneja and Mr. Aryan Singh, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Ms. Shiva Lakshmi, SPC along with Mr. Prassant Kumar Sharma and Ms. Pankhuri Tiwari, Advs.
Mr. Amit Tiwari, CGSC along with Ms. Ayushi Srivastava, Mr. Arpan Narwal, Mr. Kushagra Malik and Mr. Ujjwal

Tyagi, Advs.
Ms. Vaishali Gupta, PC.
Mr. Harpreet Singh, SSC along with Mr. Jatin Kumar Gaur, Adv.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

ORDER

% **10.08.2026**

1. This order shall dispose of two (02) connected Writ Petitions.

2. In essence, the principal relief being sought in both the Petitions is to strike down Clauses (c) and (d) of Section 17(5) (to be read as Impugned Provisions/IPs) of the Central Goods and Services Tax Act, 2017 [hereinafter referred to as 'CGST'], with the Petitioner in W.P.(C) 4683/2020, raising an additional challenge against the validity of Circular No.28 (Flyer No.) dated 01.01.2018 (to be read as Impugned Circular/IC) issued by the Respondent No.4.

3. Notably, the challenge to the constitutional validity of the IPs has already been put to quietus by the Hon'ble Supreme Court in ***Chief Commissioner of Central Goods and Service Tax v. M/s Safari Retreats Private Ltd.***[1]**,** wherein the IPs were held to be constitutionally valid. However, the Court while emphasizing upon the applicability of functionality test, observed that whether or not the proposed structure is a plant, would require appreciation of facts and shall differ on case-to-case basis.

4. In this regard, learned senior counsel representing the Petitioners submit that retrospective amendment carried out by the

[1] 2024 INSC 756

Government does not affect certain observations made by the Supreme Court.

W.P.(C) 11633/2019

5. Learned senior counsel representing the Petitioner submits that, on account of delay occasioned in pursuing the present proceedings, the Petitioner will not be permitted to claim benefits otherwise available to it.

6. Section 14 of the Limitation Act, 1963, *inter alia*, provides for exclusion of time spent in *bona fide* proceedings before a Court.

7. Accordingly, in this regard, the Petitioner, if so advised, will be at liberty to file an appropriate application before the Adjudicating Authority, which will be considered pragmatically in accordance with law.

W.P.(C) 4683/2020

8. As noticed hereinabove, the present Petition raises an additional challenge against the IC, which came to be issued prior to the judgment of the Hon'ble Supreme Court in ***Safari Retreats*** *(Supra)*.

9. In view of the judgment passed by the Hon'ble Supreme Court, the IC has to be read in accordance therewith. However, such an exercise can only be carried out by the Adjudicating Authority upon appreciating of facts and circumstances of the present case.

10. Learned counsel representing the Respondents does not dispute that the judgment passed by the Supreme Court is to be applied and the IC has to be read accordingly.

11. In view of the aforesaid observations, both the Petitions, along with pending applications, are disposed of, while granting liberty to the Petitioners to approach the Adjudicating Authority in accordance with law.

12. A photocopy of the order passed today be kept in the connected matters.

ANIL KSHETARPAL, J

HARISH VAIDYANATHAN SHANKAR, J

AUGUST 10, 2026

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