CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 4

Service Tax Appeal No. 50278 of 2017

(Arising out of Order-in-Original No. DLI-SVTAX-002-COM-020/2016-17 dated 30.09.2016 passed by the Commissioner of Service Tax, Delhi)

Delhi Development Authority Appellant
The Chief Accounts Officer,
Room No. B-204, Delhi Development Authority,
Vikas Sadan, INA, New Delhi-110023

Vs.

Commissioner of Service Tax, Delhi-II Respondent
5th Floor, 14-15, Farm Bhawan, Nehru Place,
New Delhi-110019.

And
Service Tax Appeal No. 50191 of 2021

(Arising out of Order-in-Original No. 11-14/TPS/PC/CGST/DSC/2020-21 dated 16.09.2020 passed by the Principal Commissioner of Central Goods & Service Tax, Delhi South)

Delhi Development Authority Appellant
Vikas Sadan, INA, New Delhi-110023

Vs.

Principal Commissioner of Central Goods And Service Tax, Delhi South Commissionerate, New Delhi Respondent
Plot 2-B, 3rd Floor, EIL Annexe,
Bhikaji Cama Place, Delhi South,
New Delhi-110066.

Appearance:

Present for the Appellant: None

Present for the Respondent: Shri Mihir Ranjan, Special Counsel

CORAM:
HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)
HON'BLE SHRI P.V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 13.05.2026
Date of Decision: 24.08.2026

Final Order Nos. 51389-50390/2026

Dr. Rachna Gupta

Present order disposes of two appeals arising out of the common order pertaining to the same assessee i.e. Delhi Development Authority[1] and involving the same issue. The details of both the appeals are as follows:

S. No.	Appeal No.	Order-in-Original No.	Show Cause Notice No.	Period in dispute	Amount
1.	ST/50278 /2017	DLI-SVTAX-002/COM-020/2016-17 dated 30.09.2016	(i) 24/2015 dated 21.04.2015	1.4.2013 to 31.3.2014 & 1.4.2014 to 1.4.2015	157,32,19,353
			(ii) 08/Div.VIII/2016-17 dated 13.04.2016		173,57,28,534
2.	ST/50191 /2021	11-14/TPS/PC/CGST/DSC/2020-21 dated 16.09.2020	(i)DL/ST/AE/Inq./Gr.IV.2/20/08/Pt. DDA dated 31.08.2010	20007-08 to 2009-10	7,49,31,38,305
			(ii)DL-1/ST/R-V/AE/SCN/DDA/35/10 dated 11.02.2011	1.4.2010 to 30.9.2010	28,22,92,609
			(iii)DL-I/ST/R-5/AE/SCN/DDA/35/10 dated 27.03.2012	1.10.2010 to 30.9.2011	1,56,10,51,094
			(iv)97/Div.1/R-V/2012-13 dated 05.09.2012	1.10.2011 to 31.3.2012	15,95,43,883/-

2. The facts which resulted into the said adjudication are that the appellant is registered with the Service Tax department for rendering services in the nature of 'Mandap Keeper Service', Health and Fitness Service', 'Architect Service' and 'Club or Association Service' etc. During the audit of their records, it was observed that the appellants were not paying the service tax on the amounts received against rendering the activity of Renting of Immovable

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1 DDA

Property' for commercial use. However, neither the assessee was registered under this service nor was paying service tax on the amounts so received. Accordingly, the aforesaid show cause notices in both the respective appeals were served upon the appellants for such period as reflected therein proposing demand and recovery of the service tax of such amount as mentioned in the table above. The proposals of the said show cause notices have been confirmed vide the respective order-in-originals as tabulated above. Being aggrieved, the appellant is before this Tribunal.

3. It is observed that on the day, the matter was heard i.e. on 13th May, 2026, none had appeared for the appellant. However, since both the appeals are old i.e. Appeal No. 50278 pertains to the year, 2017, Appeal No. 50191 pertains to the year, 2021 that the matter was not adjourned any further and the arguments were heard on behalf of the department and both the appeals got reserved for the orders.

4. Learned Departmental Representative appearing for the department has submitted that the appellant is a corporate body managed by the Members as mentioned in Section 3 (3) of Delhi Development Authority Act, 1957. However, the liabilities of such bodies also has recently been dealt with by this Tribunal Chennai Bench in Service Tax Appeal No. 40886 of 2016 which has dealt with a similar issue relating to a municipality constituted under Article 23Q of Constitution of India in its Final Order No. 40819/2025 dated 12.08.2025 has remanded back the matter. It is further submitted that the appellant themselves have denied to be the owners of the land of the Nazul land/land in question. The

appellant has asserted itself to only be the custodian of said land on behalf of the Government of India. As observed by the above decision that for rendering the services of 'Renting of Immovable Property', the service provider need not to be the owner of perpetual deeds by the appellant against receiving consideration in the form of premium/or ground rent, the same is liable to service charges, the activity being taxable in nature.

4.1 Learned Departmental Representative has also referred to the Larger Bench decision in case of **RIICO Ltd.**[2] wherein it has been categorically settled that lease premium/salami is excisable to service tax under Section 65(105)(zzz)/Section 66B (44) post 01.07.2012. With these submissions, both the appeals are prayed to be dismissed.

5. Having heard learned Departmental Representative and after perusing the grounds of appeal and other record of the appeal memo, it is observed that the appellant has mentioned, in the appeal, that appellant is a statutory body and is the creature of the statute to provide for the development of Delhi according to plan and for matters ancilliary thereto. That for discharging the said functions under the said statutory mandate the appellant is not liable to pay service tax. However, the issue settled by Hon'ble Apex Court in the case of **Krishi Upaj Mandi Samiti, Alwar Vs. Commissioner of Central Excise & Service Tax, Alwar**[3] wherein it has been held that whenever the activity of any governmental authority/Government/any authority created under a

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2 Interim Order No. 1/2025 dated 27.01.2025

3 (2022) 1 SCR 700

statute amounts to be an activity for commerce, irrespective of the status of such an authority it is liable to pay service tax;

5.1 Coming to the activity rendered by the appellant on which the service tax has been demanded. It is observed that the service tax under all of the show cause notices has been demanded for rendering 'Renting of Immovable Property' service and Club Services by DDA while receiving the lease amount /premium and membership and subscription charges respectively.

5.2 To adjudicate the same we have foremost perused the meaning to 'Renting of Immovable Property' as is defined under Section 65(105)(zzzz) of Finance Act, 1994 as follows:

> "Renting of immovable property" includes renting, letting, leasing, licensing or other similar arrangements of immovable property for use in the course of furtherance of business or commerce but does not include –
>
> (i) renting of immovable property by a religious body or to a religious body; or
>
> (ii) renting to immovable property to an educational body, imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre.
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> ***Explanation 1***. – For the purposes of this clause, "for use in the course of furtherance of business or commerce" includes use of immovable property as factories, office buildings, warehouses, theatres, exhibition halls and multiple use buildings;
>
> ***Explanation 2.*** - For the removal of doubts, it is hereby declared that for the purposes of this clause "renting of immovable property" includes allowing or permitting the use of space in an immovable property, irrespective of the transfer of possession or control of the said immovable property."

5.3 Since the period involved is post negative list also we also perused Section 65B (44) which defines taxable 'service' as follows:

> “(44) "Service" means any activity carried out by a person for another for consideration, and includes a declared service, but shall not include—
>
> (a) An activity which constitutes merely,––
>
> (i) A transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or
>
> (ii) Such transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of clause (29A) of article 366 of the Constitution; or
>
> (iii) A transaction in money or actionable claim;
>
> (b) A provision of service by an employee to the employer in the course of or in relation to his employment;
>
> (c) Fees taken in any Court or tribunal established under any law for the time being in force.”

The activity of the appellant stands classified under Section 65B (44) of Finance Act post 01.07.2012. The activity is not finding any mention in Section 66D of Finance Act, 1994.

5.4 Apparently, the appellants were letting/giving on rent/lease, the Nazul lands on behalf of Central Government in the President of India on freehold basis and were receiving ground rent and one time premium holding it to be in the nature of land revenue. No doubt the object of DDA Act under which the appellant created was of development in State of Delhi. However, if the appellant was earning some profits while discharging any function under the statute, the same is liable to tax and that the amount is not the amount of statutory levy/fee which was to be deposited in Government treasury. It is apparent that the appellant has not been proved to be in the nature of statutory fee rather is admitted to be the amounts received against renting of immovable property.

5.5 Hon'ble Supreme Court in **Krishi Upaj Mandi Samiti, New Mandi Yard, Alwar** (supra) has discussed Circular No. 89/7/2006 dated 18.12.2006 which reads as follows:

> "A doubt has arisen whether such activities provided by a sovereign/public authority required to be provided under a statute can be considered as 'provision of service' for the purpose of levy of service tax.
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> 2. The issue has been examined. The Board is of the view that the activities performed by the sovereign/public authorities under the provision of law are in the nature of statutory obligations which are to be fulfilled in accordance with law. The fee collected by them for performing such activities is in the nature of compulsory levy as per the provision of the relevant statute, and it is deposited into the Government treasury. Such activity is purely in public interest and it is undertaken as mandatory and statutory function. These are not in the nature of service to any particular individual for any consideration. Therefore, such an activity performed by a sovereign/public authority under the provisions of law does not constitute provision of taxable service to a person and, therefore, no service. tax is leviable on such activities
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> 3. However, if such authority performs a service, which is not in the nature of statutory activity and the same is undertaken for consideration not in the nature of statutory fee/levy, then in such cases, service tax would be leviable, if the activity undertaken falls within the ambit of a taxable service."

Hon'ble court had held that:

As per the exemption circular only such activities performed by the sovereign/public authorities under the provisions of law being mandatory and statutory functions and the fee collected for performing such activities is in the nature of a compulsory levy as per the provisions of the relevant statute and it is deposited into the Government Treasury, no service tax is leviable on such activities. In paragraph 3, it is also specifically clarified that if such authority performs a service, which is not in the nature of a statutory activity and the same is undertaken for consideration, then in such cases, service tax would be leviable, if the activity undertaken falls within the ambit of a taxable service. Thus, the language used in the 2006 circular is clear, unambiguous and is capable of determining a defined meaning.

> 22. The exemption notification should not be liberally construed and beneficiary must fall within the ambit of the exemption and fulfill the conditions thereof. In case such conditions are not fulfilled, the issue of application of the notification does not arise at all by implication.
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> 23. It is settled law that the notification has to be read as a whole. If any of the conditions laid down in the notification is not fulfilled, the party is not entitled to the benefit of that notification. An exception and/or an exempting provision in a taxing statute should be construed strictly and it is not open to the court to ignore the conditions prescribed in the relevant policy and the exemption notifications issued in that regard.
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> 24. The exemption notification should be strictly construed and given a meaning according to legislative intendment. The Statutory provisions providing for exemption have to be interpreted in light of the words employed in them and there cannot be any addition or subtraction from the statutory provisions.
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> 25. As per the law laid down by this Court in a catena of decisions, in a taxing statute, it is the plain language of the provision that has to be preferred, where language is plain and is capable of determining a defined meaning. Strict interpretation of the provision is to be accorded to each case on hand. Purposive interpretation can be given only when there is an ambiguity in

> the statutory provision or it results in absurdity, which is so not found in the present case.

5.6 As brought to notice, the decision of Larger Bench of this Tribunal vide Interim Order 01/2025 decision dated 27.07.2025 in the appeal filed by **RIICO Ltd.** bearing Appeal No. 50553/2017 has categorically settled that the lease premium or salami is excisable to service tax under renting of immovable property for the period prior to 01.07.2012 under Section 65(105)(zzz) of the Finance Act and from 01.07.2012 under Section 65B (44) of the Finance Act. In another appeal bearing No. 58914 of 2013 filed by M/s Delhi Development Authority itself this Tribunal vide Final Order No. 53021/2017 dated 24.04.2017 had remanded the matter back to the original adjudicating authority observing that there is no discussion or finding by the original authority regarding non-commercial or commercial nature of the property let out by the appellant. Also that the tax liability while renting vacant land prior 01.07.2010 was not analyzed in terms of the decision of this Tribunal in the case of **Greater Noida Industrial Development Authority Vs. CCE & ST - Noida**[4].

5.6 Post remand order-in-original dated 16.09.2020 i.e. one of the order in question has been passed holding that activity of leasing or Renting of Immovable Property do constitute a taxable service. Relying upon **Greater Noida Industrial Development Authority** (supra) decision, it was held that renting of vacant land since was outside the purview of taxable service prior 01.07.2010

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4 2015 (38) STR 1062 (Tri.-Del.).

that the same need to be excluded from the service tax demand. The activity of charging membership and subscription for DDA sports complex has also been denied to be a sovereign activity in both the orders in question. It is held to be an activity for commercial purposes hence is held taxable.

6. We do not find any infirmity in the findings as arrived at. Above all, the appellant has opted to not to appear and make the submissions. It is also observed that show cause notices were issued observing that the appellant has not provided the requisite information despite the letters and the reminders seeking requisite details that the demand was proposed. The original adjudicating authorities have also observed that the DDA could not produce any such document to justify their claim of rending the sovereign function while leasing out the Government lands against rent/lease/premium. In the light of the entire above discussion, we hereby upheld the findings arrived at by both the original adjudicating authorities. Consequent thereto, both the appeals are hereby dismissed.

(Pronounced in open Court on 24.08.2026)

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

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

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