# CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
# HYDERABAD

REGIONAL BENCH- COURT NO. – I

**Service Tax Appeal No. 30124 of 2016**

(Arising out of**Order-in-Original No**. TTD-ExCus-000-COM-13-15-16 dated 07.12.2015passed by Commissioner of Customs, Central Excise & Service Tax, Tirupati)

**Tirumala Tirupati Devastanams** .. **APPELLANT**
Tirumala & Tirupati, TTD,
Administrative Building,
K.T. Road, Tirupati,
Andhra Pradesh – 517 501.

*VERSUS*

**Commissioner of Central Tax Tirupati - CGST** .. **RESPONDENT**
No. 9/86, West Church Compound,
Amaravathi Nagar, MR Palli Road,
Thirupathi, Chittor,
Andhra Pradesh – 517 502.

**APPEARANCE:**
Shri Ch. Sumanth & Ms Hasmithaa Reddy, Advocates for the Appellant.
Shri B. Sangameshwar Rao, Authorized Representative for the Respondent.

**CORAM: HON'BLEMr. SANJIV SRIVASTAVA, MEMBER(TECHNICAL)**
**HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)**

## FINAL ORDER No. A/30525/2026

Date of Hearing:13.11.2026
Date of Decision:26.11.2026

**[ORDER PER: ANGAD PRASAD]**

The present appeal has been filed by M/s Tirumala Tirupati Devastanams (hereinafter referred to as appellant) challenging the impugned Order-in-Original dated 07.12.2015 passed by the Commissioner, whereby, service tax amounting to Rs. 2,25,81,935/- has been confirmed for period April 2013 to March 2014, along with interest under Section 75 and penalties under Section 76 and 77 of the Finance Act, 1994.

2. The principal issue involved is whether accommodation provided by the appellant to pilgrims in its guest houses,choultries and rest houses is eligible for exemption under Notification No. 25/2012-ST dated 20.06.2012.

3. The facts in brief are that the appellant is a religious and charitable institution constituted under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, entrusted with the administration and management of the temple of Lord Shri Venkateswara and other associated religious institutions. In furtherance of its statutory obligations, the appellant provides accommodation facilities to pilgrims visiting Tirumala and Tirupati for which certain charges are collected.

4. The Department issued a show cause notice dated 11.02.2015 demanding service tax of Rs. 2,25,81,935/- on the gross consideration of Rs. 30,45,02,900/- received towards accommodation during the relevant period. The Adjudicating Authority concluded that the appellant was providing taxable short-term accommodation services and accordingly confirmed the demand along with interest and penalties. Aggrieved thereby, the appellant has preferred the present appeal.

5. Learned Counsel for the appellant submits that the appellant is essentially a religious and charitable institution and the accommodation facilities are provided exclusively for pilgrims in furtherance of its statutory religious obligations. It is contended that the choultries and rest houses are maintained without any commercial or profit motive and the amounts collected are primarily intended to meat maintenance expenditure.

6. Learned Counsel further submits that the activity is squarely covered by Serial No. 5(a) of Notification No. 25/2012-ST dated 20.06.2012, which exempts services provided by way of renting of precincts of a religious place

meant for the general public. Reliance is placed upon CBEC Circular No. 200/10/2016-ST dated 06.09.2016, clarifying that the expression precincts should not be interpreted restrictively and may include immovable properties situated in the immediate vicinity and surrounding areas of a religious place, subject to the conditions specified therein.

7. Learned Counsel has also relied upon the decisions in the case of South Eastern Coalfields Ltd., Vs CCE, M.P. [2006 (200) ELT 357 (SC)] and Municipal Council, Tirupati Vs Tirumala Tirupati Devastanams [AIR 1974 SC 521] in supporting of the submissions relating to the meaning of precincts and the charitable character of the appellant's accommodation facilities.

8. It is alternatively submitted that the appellant is entitled to cum tax benefit under Section 67(2) of the Finance Act, 1994. It is further contended that interest and penalties are unsustainable and that the appellant entertained a bona fide belief regarding non-taxability of its activities. Accordingly, the impugned order is prayed to be set aside.

9. Learned Authorised Representative appearing for the Department reiterates the findings of the Adjudicating Authority and submits that the appellant is providing short-term accommodation in guest houses, rooms and choultries for a consideration. Such activities according to the Department, constitute taxable accommodation services notwithstanding the religious or charitable status of the appellant.

10. Learned AR places reliance upon the judgement of the Hon'ble Andhra Pradesh High Court in the case of Tirumala Tirupati Devastanams Vs Superintendent of Customs, Central Excise and Service Tax, reported in [2013 (30) STR 27 (AP)], wherein, the High Court upheld the Department's

direction requiring the appellant to obtain service tax registration in respect of accommodation services.

11. It is further submitted that an appeal against the aforesaid judgment was preferred before the Hon'ble Supreme Court and Leave was granted. The Revenue contends that exemption upon Notification No. 25/2012-ST cannot be automatically extended to all accommodation facilities merely because they are owned or managed by a religious institution.Reliance is placed upon the constitution Bench judgment of the Hon'ble Supreme Court in the Commissioner of Customs (Import), Mumbai Vs M/s Dilip Kumar and Company & Others[2018 (361) ELT 577 (SC)], wherein, it has been held that exemption notifications must be strictly construed at the burden of establishing eligibility rests upon the assessee. The Revenue accordingly prays for dismissal of appeal.

12. We have carefully considered the rival submissions and perused the records.

13. The principal question arising for our consideration is whether the accommodation facilities provided by the appellant fall within the scope of the exemption granted under Serial No. 5(a) of Notification No. 25/2012-ST dated 20.06.2012 and, consequentially, whether the demand of service tax, interest and penalties is legally sustainable.

14. At the outset, we observe that the religious and charitable character of the appellant is not seriously disputed. However, the mere fact that an institution is established for religious or charitable purposes does not, by itself, render every service provided by it exempts from service tax. The taxability of a particular activity must be determined with reference to the

statutory provisions and exemption notifications applicable during the relevant period.

15. Serial No. 5(a) of the Notification No. 25/2012-ST, as applicable during the disputed period, exempted services by a person by way of renting of precincts of a religious place meant for the general public. Thus, the decisive consideration is whether the accommodation facilities in question constitute premises falling within the precincts of a religious place and satisfy the requirements of the notification. Relevant part of the Notification is as follows:

> "5. Services by a person by way of–
> (a) renting of precincts of a religious place meant for general public; or
> (b) conduct of any religious ceremony;"

16. It this regard, we find considerable force in the appellant's reliance upon CBEC Circular No. 200/10/2016-ST dated 06.09.2016. The relevant part of the Circular is extracted as below for ready reference:

> "6. In view of the above, field formations may not take a restricted view of the word 'precincts' and consider all immovable property of the religious place located within the outer boundary walls of the complex (of buildings and facilities) in which the religious place is located, as being located in the precincts of the religious place. The immovable property located in the immediate vicinity and surrounding of the religious place and owned by the religious place or under the same management as the religious place, may be considered as being located in the precincts of the religious place and extended the benefit of exemption under Notification No. 25/2012-Service Tax, Sl.No. 5(a) dated 20-6-2012."

The Board has clarified that the expression precincts should not receive a restricted interpretation and that immovable properties situated within the religious complex as well as properties in the immediate vicinity and surrounding areas owned by or under the same management as the religious place, may fall within its scope. The clarification is material to the interpretation of the expression already appearing in the exemption notification. Being a clarification of the scope of an existing expression, it deserves consideration while examining eligibility for the disputed period.

17. We also take note of the judgment of the Hon'ble Supreme Court in the case of Commissioner of Customs (Import), Mumbai Vs M/s Dilip Kumar and Company, supra, wherein, it has been held that the burden of establishing entitlement to exemption rests upon the assessee and that any ambiguity regarding eligibility must be resolved in favour of the Revenue. Nevertheless, a strict interpretation of an exemption notification does not justify ignoring the ordinary meaning of the expressions employed therein or the clarification issued by the Board regarding their scope.

18. We further observe that the Hon'ble Andhra Pradesh High Court in the appellant's own case reported in 2013 (30) STR 27 (AP), upheld the Department's direction requiring registration for accommodation services. However, the said decision arose out of proceedings concerning Department's direction issued in May, 2011. The present dispute relates to April, 2013 to March 2014, when Notification No. 25/2012-ST was operative. Therefore, the applicability of the exemption notification during the present period requires independent examination. The earlier judgment cannot be treated as dispensing with the necessity of examining the appellant's claim under the subsequently applicable exemption provisions. The decision of the Hon'ble Supreme Court in the case of Municipal Council, Tirupati Vs Tirumala

Tirupati Devastanams, AIR 1974, SC 521, relied upon by the appellant establishes the charitable character of the choultry activities in the context of the statutory provisions considered therein. However, that decision cannot, by itself, determine eligibility under the service tax exemption notification, which must be independently examined.

19. We find that the demand in the present case has been computed on the aggregate consideration received from various guest houses and accommodation facilities situated at Tirumala and Tirupati, including Madhavam Guest House, Srinivasam Guest House, Shri Padmavathi Guest House and Vishnu Nivasam Guest House. The records placed before us do not establish that the location and eligibility of each of these accommodation facilities have been separately examined with reference to the conditions prescribed under Serial No. 5(a) of Notification No. 25/2012-ST. In our considered view, it would not be legally appropriate either to grant exemption to the entire accommodation activity merely on account of the appellant's religious status or to deny the benefit altogether without examining the location and nature of the respective facilities.

20. It is also necessary to examine the declared tariff applicable to the individual units of accommodation and the eligibility for exemption under the relevant entry of Notification No. 25/2012-ST relating to accommodation having declared tariff below Rs. 1000/- per day. Where an accommodation facilitating is independently eligible for exemption under the said provision, the corresponding consideration cannot be subjected to service tax merely because the appellant also operates accommodation facilities attracting higher tariffs.

21. We further find that the appellant has raised an alternative contention regarding cum-tax benefit. It is settled that where the amount charged represents the entire consideration and service tax has not been charged separately, the applicability of Section 67(2) of the Finance Act, 1994 is required to be examined. The Adjudicating Authority shall consider this contention in accordance with law while determining the taxable value, if any.

22. As regards penalties, we find that the dispute involves interpretation of the statutory provisions and exemption notification in the context of the accommodation facilities provided by a religious institution. The appellant had already been contesting the levy before the constitutional courts. These circumstances are relevant while determining whether ingredients necessary for imposing penalties are established. The applicability of Section 80 of the Finance Act, 1994, as it stood during the relevant period, at the existence of the reasonable cause for the alleged contraventions are also required to be considered.

23. We further take note of the submissions regarding the proceedings pending before the Hon'ble Supreme Court.In Writ Petition (Civil)Appeal No. 74/2014,the Hon'ble Supreme Court, by order dated 14.02.2014, directed that no coercive steps be taken against the appellant for recovery of service tax. The parties shall remain bound by the orders of the Hon'ble Supreme Court, to the extent they continue to operate. The pendency of those proceedings does not, by itself, establish entitlement to exemption or automatically preclude adjudication of the present appeal.

24. Appellant has taken a alternate argument stating that in terms of the State Act, they are religious and charitable organization, hence all the

activities undertaken by them should be considered exempted from any service tax. We do not find any merits in the said argument in view of any specific exemption granted to the appellant in respect of its activities in terms of Section 93 (2) of the Finance Act, 1994. Section 93 of the Finace Act, 1994 is reproduced below:

*SECTION 93. Power to grant exemption from service tax —*

*(1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally or subject to such conditions as may be specified in the notification, taxable service of any specified description from the whole or any part of the service tax leviable thereon.*

(2) *If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt any taxable service of any specified description from the payment of whole or any part of the service tax leviable thereon, under circumstances of exceptional nature to be stated in such order.*

While Section 93 (1) empowers government to exempt any taxable service generally, Section 93 (2) empowers government to give exemption in special circumstances such exemption to religious/ charitable trust. Appellant has not produced before us any such exemption issued in terms of Section 93 (2) of the Finance Act, 1994 exempting their activities for the reason that they are religious/ charitable trust. Hence this argument is not justified and rejected.

25. In view of the foregoing discussion, we are of the considered opinion that the impugned order, in so far as it confirms the entire demands without a proper examination of eligibility under the relevant exemption provisions in respect of the individual accommodation facilities, cannot be sustained in its present form. However, since the determination of the exemption eligibility necessarily involves verification of the location of the respective properties, their relationship with the religious precincts, the applicable declared tariff and the relevant receipts, we considered it appropriate to remand the matter to the Adjudicating Authority for fresh consideration.

26. Accordingly, the impugned order dated 07.12.2015 is set aside and the matter is remanded to the Adjudicating Authority for fresh adjudication, with the following directions:

(i) To examine the eligibility of the respective accommodation facilities under serial no. 5(a) of Notification No. 25/2012-ST dated 20.06.2012, keeping in view CBEC Circular No. 200/10/2016-ST dated 06.09.2016.

(ii) To examine applicability of the exemption relating to accommodation having declared tariff below Rs. 1000/- per day under the notification as applicable during the relevant period.

(iii) To determine the taxable value, if any, after considering the appellant's claim for cum-tax benefit and any other admissible statutory benefit.

(iv) To reconsider the liability towards interest and penalties in accordance with law, including the applicability of Section 80 of the Finance Act, 1994 as relevant to the disputed period.

(v) To afford a reasonable opportunity of personal hearing to the appellant and pass a reasoned and speaking order.

27. We make it clear that all issues are to be decided in accordance with the observations made hereinabove and the applicable law, without being influenced by the conclusions recorded in the impugned order. The Adjudicating Authority shall also remain subject to any subsisting directions of the Hon'ble Supreme Court concerning the dispute.

28. Appeal is accordingly allowed by way of remand.

(Pronounced in the open court on 26.11.2026 )

**(SANJIV SRIVASTAVA)**
**MEMBER(TECHNICAL)**

**(ANGAD PRASAD)**
**MEMBER (JUDICIAL)**

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