IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2370 OF 2017

Ms. Jet Airways (India) Limited	}	**Petitioner**
versus		
Union of India and Ors.	}	**Respondents**

Mr. Jitendra Motwani i/b. M/s. Economic Laws Practice for the petitioner.

Mr. M. Dwivedi for the respondents.

CORAM :- S. C. DHARMADHIKARI &
PRAKASH. D. NAIK, JJ.

DATED :- APRIL 10, 2018

P.C. :-

1. Heard both sides.

2. Mr. Dwivedi appearing for the respondents, on instructions, makes a statement that the petitioner has rushed to this court challenging the notice, copy of which is at page 87 of the paper book. This notice reads as under:-

"OFFICE OF THE DEPUTY COMMISSIONER OF DIVISION-ii, SERVICE TAX-V:MUMBAI, 2ND FLR, ESTRELLA BATTERY COMPOUND, MSEB, DHARAVI, MATUNGA, MUMBAI-400 019

Email id: div2-st5mum@gov.in"

* *

F. No. ST-V/Div.II/JET/CRS-CENVAT/29/2017/90

To,
M/s. Jet Airways (I) Ltd.,
Siroya Centre, Ground Floor,
Sahar Airport Road, Andheri (E),
Mumbai – 400 099

Sir,

Sub: Recovery of Service Tax on services relating to Computer Reservation System reg.

M/s. Jet Airways India Ltd. began paying Service Tax on CRS services received from GDS companies with effect from 01.07.2012 under reverse charge mechanism.

In this regard you are hereby requested to inform that, whether the credit of said Service Tax payment under reverse charge mechanism is availed & utilized by M/s. Jet Airways (I) Ltd.

Since, the issue of liability of service tax on the Services relating to Computer Reservation System provided from abroad to airlines has been clarified/settled with effect from 01.12.2016. As the services fall under OLIDAR, hence no Service Tax was payable under Reverse charge mechanism during the period 01.07.2012 to 31.11.2016 for services received from CRS/GDS companies with effect from 01.07.2012.

During the period 01.07.2012 to 30.11.2016, the payment of service tax on OLIDAR services received was governed by Rule 9(B) of Place of Provision of Service Rules, 2012 which provided that place of provision of OLIDAR services wold be the location of the service provider. During this period, if the provider of OLIDAR services was outside taxable territory, then no Service Tax was payable. Since Service Tax was not leviable under the Finance Act on OLIDAR services provided from abroad, M/s. Jet Airways India Ltd. would be ineligible to avail and utilize the CENVAT credit of the amount paid by them as Service Tax under reverse charge mechanism.

In the above context, you are hereby requested to inform this office that whether M/s. Jet Airways (I) Ltd. is availing/utilizing CENVAT Credit of the said services, if yes then you are hereby requested to provide the details of month wise duty paid on services received from GRS/GDs companies under RCM for the said period and details of month wise CENVAT Credit availed on the same amount paid under RCM. Further you are requested to reverse the same immediately along with interest, under intimation to this office.

Kindly treat this as **MOST URGENT**.

Yours Faithfully,

(SAHIL SETH)
Deputy Commissioner, Div-II
Service Tax-V, Mumbai

3. Mr. Dwivedi says that the petitioner has replied to this notice by its reply at Exhibit-'G' from page 88 of the paper book. Now, the Revenue would take the necessary steps, including passing an order. Once this statement is made by Mr. Dwivedi, on instructions, then, there is no apprehension of any recovery by coercive means and without a valid and legal order. In these circumstances, by keeping open all contentions, the writ petition is disposed of.

(PRAKASH.D.NAIK, J.) **(S.C.DHARMADHIKARI, J.)**