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

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\+ **W.P.(C) 4797/2018 & CM APPL. 18467/2018**

SAGAR RATNA RESTAURANTS PVT. LTD. ..... Petitioner
versus
VALUE ADDED TAX OFFICER (WARD 205) & ORS.
..... Respondents

2

W.P.(C) 4945/2018 & CM APPL. 19081/2018

SAGAR RATNA RESTAURANTS PVT LTD ..... Petitioner
versus
VALUE ADDED TAX OFFICER (WARD 205) & ORS.
..... Respondents

3

W.P.(C) 4946/2018 & CM APPL. 19083/2018

SAGAR RATNA RESTAURANTS PVT LTD ..... Petitioner
versus
VALUE ADDED TAXE OFFICER (WARD 205) & ORS.
..... Respondents

4

W.P.(C) 4947/2018 & CM APPL. 19085/2018

SAGAR RATNA RESTAURANTS PVT. LTD ..... Petitioner
versus
VALUE ADDED TAX OFFICER (WARD 205) & ORS.
..... Respondents

Present: Mr. Gagan Kumar and Mr. Amit Kaushik, Advocates for petitioner in Item No.1 to 4.
Mr. Ramesh Singh, Standing Counsel for GNCTD in Item No.1 to 4.
Mr. Sanjeev Narula, CGSC with Mr. Abhishek Ghai, Advocate for R-3/UOI in Item No.1 to 4.

Mr. Kirtiman Singh, CGSC for R-3 in Item-4.
Mr. Harpreet Singh, Sr. Standing Counsel for R-4 in Item No.1 to 4.
Mr. Akshay Allaga, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE ANU MALHOTRA

O R D E R

% **21.08.2018**

This Court had in a batch of writ petitions, including W.P.(C) 3404/2015 *'Sagar Ratna Restaurants Pvt. Ltd. vs. Value added Tax Officer (Ward 205) & Others'* by the judgment dated 17.05.2007 allowed the assesse's claim in regard to the question as to whether the consideration received under franchise agreement was for transfer of right to use goods and the trademark under the Delhi Sales Tax Right to Use Goods Act, 2002 and under the Delhi Value Added Tax Act, 2004. The petitions were allowed. The respondent/State of NCT of Delhi apparently carried these judgments in appeals. The subject writ petitions were heard and stay was granted by the judgment.

In these circumstances, in subsequent proceedings '*G.D. Goenka (P) Ltd. vs. Union of India & Ors'*, W.P. (C) No.4138/2017 this Court had on 20.09.2017 directed the proceedings to be adjourned sine die to await the final outcome of the proceedings before the Supreme Court.

This Court is of the opinion that it would be appropriate to follow the judgment of 17.05.2017 because the issues are identical, however, in the event the final judgment is in any way set aside, modified or clarified by the Supreme Court in the pending proceedings before it, that decision will be binding upon the parties. In other words, if it becomes necessary, in some manner, to give effect to the final order of the Supreme Court by an appropriate modification (to give tax effect) by the Revenue, it shall be at liberty to do so.

Writ petitions are accordingly disposed of in terms of the judgment dated 17.05.2017 in Writ Petition (C) No.4453/2013 and Writ Petition (C) No.3404/2015. Pending applications stand disposed of.

S. RAVINDRA BHAT, J

ANU MALHOTRA, J

AUGUST 21, 2018
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