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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **VAT APPEAL 1/2019, C.M. APPL.3293-3295/2019**
R.K.ASSOCIATES & HOTELIERS PRIVATE LIMITED

..... Appellant

Through : Sh. Rajesh Jain, Sh. Puneet Rai and Ms.
Aastha Gandhi, Advocates.

versus

COMMISSIONER OF TRADE & TAXES Respondent
Through : Sh. Satyakam, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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23.01.2019

C.M. APPL.3293/2019 (for exemption)

Allowed, subject to all just exceptions.

C.M. APPL.3294/2019 (for condonation of delay)

For the reasons mentioned in the application, the delay is
condoned. C.M. Appl. 3294/2019 is accordingly disposed of.

VAT. APPEAL 1/2019, C.M. APPL.3295/2019

The question of law urged is with respect to the management
and catering on board services and the levy of VAT by the GNCTD
on board services provided by the appellant to the IRCTC through its
agreement. It is contended that the activities are subjected to service
tax levy and, therefore, does not attract Value Added Tax (VAT).

At the outset, this Court notices that the VAT Tribunal has considered the submissions of the parties on merits and furthermore noted in para 22 of the impugned order that, in the judgment of this Court in *Indian Railways Catering and Tourism Corporation Ltd. v. GNCTD and Ors.* 2009-10 (48) DSTC 290, in respect of identical facts, the VAT levy was upheld. Furthermore, the appellant too appears to have conceded that the questions urged are covered by *IRCTC (supra)*.

The Court was informed during the hearing of this appeal that the Supreme Court has entertained an appeal by special leave in the *IRCTC* matter and stayed the recovery of amounts due *pendente lite*.

In the circumstances, following the decision in *IRCTC (supra)*, the appeal is dismissed. The respondents, however, shall not recover the amounts during the pendency of appeals before the Supreme Court. Accordingly, the parties, i.e. the present appellant and the respondents shall be bound by the final decision of the Supreme Court. The recoveries from the appellant are hereby stayed till the final decision is arrived at.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

JANUARY 23, 2019/ajk