

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

241-1

CWP-3587-2021

Date of Decision: April 24, 2024

M/s Piccadily Hotels Pvt. Ltd.

.....Petitioner(s)

Vs.

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Amar Pratap Singh, Advocate
for the petitioner(s).

Mr. Sharan Sethi, Addl. A.G. Haryana.

SANJEEV PRAKASH SHARMA.J. (ORAL)

The petitioner has prayed as under:-

I. Issue a writ in the nature of Certiorari. Quashing the Clarification Order (Annexure P-1) Dated 22.08.2013 passed by respondent No2 as the same is violative of Article 246 of the Constitution of India:

11. Issue a writ in the nature of Certiorari quashing the orders dated 18.09.2020 (Annexures P-4, P-7 & P-8) passed by respondent No.3. As the same have been passed by relying upon the Clarification order dated 22.08.2013 which is illegal and violative of Article 246 of the Constitution of India

III. Award Costs throughout to the petitioner.

2. After perusing the case file, we find that the orders dated 18.09.2020 (Annexures P-4, P-7 & P-8) are liable to be set aside, as the same have been passed by relying upon the clarification order dated 22.08.2013. This Court had

already taken a view in a judgment titled as “***M/s Sodexo India Services Private Ltd. Vs. State of Haryana and others***” in ***CWP No.1173 of 2022*** decided on 18.04.2024 wherein this Court had held as under:-

9. Thus, we find that the issue is no more res integra and we follow the view already expressed by the Hon'ble Division Bench of this Court in relation to GSTR No.1 of 2009 decided on 07.09.2010 and held the action of the respondents in issuing show cause notice for revision of assessment, Annexure P/2 dated 17.08.2021, to be unjustified and based on wrongful interpretation of sale in relation to catering business. We also noticed that the clarification issued in M/s Renginton has failed to take notice of the judgment passed by this Court in the case of M/s Cap 'N' Chops Caterers (supra) and such interpretations may on whims and fancies without taking into consideration the law as settled by this Court and the amounts to overreaching the process of the Court and creates unnecessary litigation before this Court. The clarification is accordingly quashed, hence, set aside. Henceforth, the law already settled by this Hon'ble Court in the case of M/s Cap 'N' Chops Caterers (supra), shall apply to all such like matters. A circular in this regard is directed to be issued by the Principal Secretary, Excise and Taxation Department, Haryana, so that, no further litigation arises on this aspect. A copy of this order is directed to be sent to the Principal Secretary for necessary compliance.”

3. Keeping in view the identical issue having been decided in case ***M/s Sodexo India Services Private Ltd.***(supra), holding clarification order dated

22.08.2013 as against settled law, we accordingly set aside the orders dated 18.09.2020 (Annexures P-4, P-7 & P-8).

- 4. The petition is allowed.
- 5. All pending applications, if any, stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

April 24, 2024
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Whether speaking/reasoned:	Speaking
Whether reportable:	Yes / No