

**Rent received by Individuals owning Property jointly cannot be clubbed to impose service tax**

The CESTAT, Chennai in *M. Vijayabharathi v. Commissioner of GST & Central Excise [Service Tax Appeal No. 42320 of 2014 dated June 14, 2023]* set aside the order levying service tax on total rent received by co-owners jointly and held that the income received as rent by each co-owner is much below the threshold limit to subject the levy of service tax thus, no service tax can be imposed.

**Facts:**

Mr. M. Vijayabharathi (“**the Appellant**”) jointly with Smt. Akila entered into an agreement with tenants of Ananda Towers for providing services of renting of immovable property during the period of 2007-08 onwards.

Upon investigation the Commissioner of GST & Central Excise (“**the Respondent**”) found that the Appellant and Smt. Akila have not paid the service tax on the rental income received from the property. The Department issued a Show Cause Notice (“**the SCN**”) demanding service tax from both co-owners jointly. The Adjudicating Authority confirmed the demand along with the interest and penalty from both the co-owners.

Aggrieved by the order of the Adjudicating Authority the Appellant filed an appeal before the Commissioner of Central Excise (Appeals) who vide Order-in-Appeal No. TCP-CEX & CUS-000-APP-067-14 dated August 21, 2014 (“**the Impugned Oder**”) upheld the order of the Adjudicating Authority.

Aggrieved by the Impugned Order, the Appellant filed the appeal before CESTAT, Chennai.

The Appellant contended that the CESTAT, Chennai in the case of Smt. Akila vide final order No. 42538/2018 dated October 01, 2018 observed that the rental income received individually

is within the threshold limit of levy of service tax thus, Smt. Akila is not required to pay service tax on the rental income.

**Issue:**

Whether the Co-owners of the property are liable to pay service tax on the rental income jointly?

**Held:**

The CESTAT, Chennai in ***Service Tax Appeal No. 42320 of 2014*** held as under:

- Observed that CESTAT, Chennai in the case of Smt. Akila has set aside the demand by observing that income received as rent individually by co-owner is much below the threshold limit of levy of service tax.
- Held that the rent received by the Appellant individually is much below the threshold limit of levy of service tax thus, no service tax can be imposed.
- Allowed the Appeal and set aside the Impugned Order.

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