

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

MAHARASHTRA VALUE ADDED TAX APPEAL NO.38 OF 2016

IN

VAT SECOND APPEAL NO.87 OF 2014

The Additional Commissioner of Sales Tax,
VAT-III, Maharashtra State, Mumbai Appellant

Vs.

Hotel Leela Venture Ltd. Respondent

WITH

MAHARASHTRA VALUE ADDED TAX APPEAL NO.39 OF 2016

IN

VAT SECOND APPEAL NO.371 OF 2015

The Additional Commissioner of Sales Tax,
VAT-III, Maharashtra State, Mumbai Appellant

Vs.

Sodexo Food Solutions India Pvt. Ltd. Respondent

Mr. V.A. Sonpal, Special Counsel, for the Appellant in
both appeals.

Mr. Subhash P. Surte for the Respondent in MVXA-38/2016.

Mr. Vinayak Patkar i/by M/s. TJS Legal for the Respondent
in MVXA-39/2016.

CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.

DATE : OCTOBER 18, 2016

P.C:

1. Having heard both sides, we are of the opinion that the orders passed by the Tribunal raise substantial questions of law. The appeals are, therefore, **admitted** on the following substantial questions of law:-

(i) Whether on true and correct interpretation of Explanation-1 to Section 2(25) of MVAT Act, 2002 defining 'Sales Price', was the Tribunal justified in holding that service tax collected from customers does not form part of sale price for the reason that said Explanation covers only specific levies such as Excise Duty, Custom Duty and do not specifically cover 'Service Tax' so as to form part of sales price?

(ii) Whether the Tribunal was right in law in holding that judgment of the Tribunal in Sujata Painters is relevant and applicable in present case even though facts involved are different?

2. The respondents through their respective counsel waive service.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)