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

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+ **W.P. (C) 2891/2016 & C.M. No. 12127/2016 (stay)**

DELHI HIGH COURT BAR  
ASSOCIATION & ANR.

..... Petitioners

Through: Mr. Ruchir Bhatia, Ms. Manisha  
Tyagi, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Akshay Makhija, CGSC with  
Ms. Seerat Singh, Advocate for UOI.  
Mr. Harpreet Singh, Senior Standing  
Counsel for R2, 3.

WITH

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+ **W.P. (C) 2892/2016 & C.M. No. 12128/2016 (stay)**

KAVIN GULATI, SENIOR ADVOCATE

..... Petitioner

Through: Mr. Tarun Gulati, Mr. Nikhil Gupta,  
Mr. Vipin Upadhaya, Advocates.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Vijay Joshi, Advocate for UOI.  
Mr. Sanjeev Narula, Senior Standing  
Counsel for Revenue with  
Mr. Abhishek Ghai, Advocate.

AND

26

+ **W.P. (C) 4186/2016 & C.M. No. 17712/2016 (STAY)**

SAJAN POOVAYYA

..... Petitioner

Through: Mr. Priyadarshi Banerjee, Advocate.

versus

THE UNION OF INDIA & ORS. .... Respondents  
Through: Mr. Akshay Makhija, CGSC with  
Ms.Seerat Singh, Advocate for UOI.

**CORAM: JUSTICE S. MURALIDHAR  
JUSTICE PRATHIBA M. SINGH**

**ORDER**  
**18.09.2017**

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1. Pursuant to the order dated 28<sup>th</sup> August 2017, Mr. Harpreet Singh, the learned counsel for the Respondents, states, on instructions, that as far as the period from 1<sup>st</sup> April 2016 to 5<sup>th</sup> June 2016 is concerned, the Respondents would still insist on collecting service tax from Senior Advocates on forward charge basis.

2. Counsel for the Petitioner points out that this Court, on 1<sup>st</sup> April 2016, passed an interim order whereby the impugned notifications were stayed but the Respondents were permitted to continue collecting service tax on reverse charge basis in respect of the fees payable to the Senior Advocates under the Notification No. 30/2012-ST dated 20<sup>th</sup> June 2012.

3. In that view of the matter, since the above interim order became effective with effect from 1<sup>st</sup> April 2016 itself and is applicable to all Senior Advocates, the question of the Department now raising any demand for the period 1<sup>st</sup> April 2016 to 5<sup>th</sup> June 2016 does not arise. There is no prejudice caused to the Department for the simple reason that the service tax from 1<sup>st</sup> April 2016 itself ought to have been collected on reverse charge basis. If any

client who has paid the fees of the Senior Advocate, has failed to make payment of the corresponding service tax on reverse charge basis, it would be open to the Department to proceed against such client to recover the service tax in accordance with law.

4. The Court clarifies that the interim order dated 1<sup>st</sup> April 2016 is made absolute and will preclude the Respondents from hereafter raising any demand of service tax on a Senior Advocate in respect of the fees paid to such Senior Advocate for the period 1<sup>st</sup> April 2016 to 5<sup>th</sup> June 2016.

5. The writ petitions and the applications are accordingly disposed of.

**S. MURALIDHAR, J.**

**PRATHIBA M. SINGH, J.**

**SEPTEMBER 18, 2017**

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