

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO.3

Service Tax Appeal No.12252 of 2013

(Arising out of OIA-PJ-36-VDR-II-2013-14 dated 15/04/2013 passed by Commissioner of Central Excise, Customs and Service Tax-VADODARA-II)

Mpc Gymkhana

Jawaharlal Nehru Road,
Vadodara, Gujarat

.....Appellant

VERSUS

C.C.E. & S.T.-Vadodara-ii

1st Floor... Room No.101,
New Central Excise Building,
Vadodara, Gujarat-390023

.....Respondent

With

Service Tax Appeal No.13572 of 2013

(Arising out of OIA-PJ/227/VDR-II/2013-14 dated 16/07/2013 passed by Commissioner of Central Excise, Customs and Service Tax-VADODARA-II)

Mpc Gymkhana

Jawaharlal Nehru Road,
Vadodara, Gujarat

.....Appellant

VERSUS

C.C.E. & S.T.-Vadodara-ii

1st Floor... Room No.101,
New Central Excise Building,
Vadodara, Gujarat-390023

.....Respondent

APPEARANCE:

Shri Saurabh Dixit, Advocate for the Appellant

Shri. Tara Prakash, Deputy Commissioner (AR) for the Respondent

CORAM:

HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR

HON'BLE MEMBER (TECHNICAL), MR. C.L. MAHAR

Final Order No. A/ 10784-10785 /2023

DATE OF HEARING: 16.02.2023

DATE OF DECISION:03.04.2023

RAMESH NAIR

The issue involved in the present case is that whether the appellant is liable to pay service tax on providing short term accommodation to its members and affiliated members of the club for the period 2006 to 2011.

02. Shri Saurabh Dixit, learned counsel appearing on behalf of the appellant at the outset submits that any service provided by club to its members is not amount to provision of service as the club is consisting of members. There is no difference between the club and its members therefore, in this position, there is no provision of service. This issue has been considered finally by the larger bench of the Hon'ble Supreme Court in the case of CALCUTTA CLUB LTD.- 2019 (29) G.S.T.L. 545 (S.C.) therefore, the issue is no longer res-integra at present. He placed reliance on the following judgments:-

- CALCUTTA CLUB LTD.- 2019 (29) G.S.T.L. 545 (S.C.)
- RAJASTHAN CO-OP. DAIRY FEDERATION LTD.- 2022 (65) GSTL 350 (Tri-Del.)
- RAJASTHAN CO-OP. DAIRY FEDERATION LTD.- 2022 (65) GSTL 257 (SC)
- RAJPATH CLUB LTD.- 2018 (4) TMI 1933-CESTAT Ahm

03. Shri Tara Prakash, learned Deputy Commissioner (AR) appearing on behalf of revenue reiterates the finding of the impugned order.

04. We have carefully considered the submissions made by both the sides and perused the records. As per the facts of the case, the appellant club has recovered charges towards short term accommodation from its club members and affiliated club members. This issue has been considered by the larger bench of the Hon'ble Supreme Court in the case of CALCUTTA CLUB LTD.(supra) wherein, it was held that the club and club members are not different entity therefore, the service provided by the club to its members does not fall under the provision of service accordingly, it was held in the said judgment that the club are not required to pay the service tax on the charges collected from its members. Considering the judgment of the Hon'ble Supreme Court whereby, the issue in the present case does not remain res-integra, the impugned orders are not sustainable hence the same are set aside. Appeals are allowed.

(Pronounced in the open court on 03.04.2023)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(C.L. MAHAR)
MEMBER (TECHNICAL)