

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 1354 of 2011

*(Arising out of Order-in-Appeal No.158 & 159/2011
dated 14.2.2011 passed by the Commissioner of Central
Excise (Appeals-II), Bangalore.)*

**M/s. Karnataka Golf
Association**

No.1, Gold Avenue,
Kodihalli,
Off. Airport Road,
Bangalore - 560 008.

Appellant(s)

Versus

**The Commissioner of
Service Tax**

N.16/1, 5th Floor,
S.P. Complex
Lalbagh Road
Bangalore - 560 027.

Respondent(s)

WITH

**1. Service Tax Appeal No. 1355 of 2011 (M/s. Karnataka
Golf Association vs. CST, Bangalore.**

*(Arising out of Order-in-Appeal No.158 & 159/2011 dated
14.2.2011 passed by the Commissioner of Central Excise
(Appeals-II), Bangalore.)*

**2. Service Tax Appeal No. 20089 of 2014 (M/s.
Karnataka Golf Association vs. CST, Bangalore.**

*(Arising out of Order-in-Appeal No.526/2013 dated 7.10.2013
passed by the Commissioner of Central Excise (Appeals-II),
Bangalore.)*

**3. Service Tax Appeal No. 22913 of 2014 (M/s.
Karnataka Golf Association vs. CST, Bangalore.**

*(Arising out of Order-in-Appeal No.421/2014 dated 30.05.2014
passed by the Commissioner of Central Excise (Appeals-II),
Bangalore.)*

Appearance:

Mr. K. S. Ravi Shankar,
Sr. Advocate and

For the Appellant

Mr. K. S. Naveen Kumar,
Advocate

Mr. Dyamappa Airani, AR

For the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

HON'BLE MR. PULLELA NAGESWARA RAO, MEMBER(TECHNICAL)

Final Order No. 21108 to 21111 / 2023

Date of Hearing: 28.06.2023

Date of Decision: 28.06.2023

Per : DR. D.M. MISRA

These four appeals are filed against respective Orders-in-Appeal, since issue involved is common, these are all taken up together for hearing and disposal.

2. Briefly stated the facts of the case are that the appellant is a society registered under Mysore Societies Registration Act, 1960. They are also registered with the Service Tax department and discharging service tax under the category of 'Mandap Keeper service'. On the basis of the investigation initiated by the DGCEI about advance admissions/enrolment fee collected from the respective Members, who apply for club membership, it was alleged that the amounts so collected would be chargeable to Service Tax under the category of "Club or Membership Association Service" for the period June 2005 to September 2011. Periodical show-cause notices were issued from time to time on the basis of the said investigation and on adjudication, the demands were confirmed with interest and penalty. Aggrieved by the said orders, they preferred appeals before the

learned Commissioner (A) who in turn rejected their appeals.
Hence, the present appeals.

3. The learned Senior Counsel for the appellant submits that in their own case, this Tribunal granted relief to them for the period 1.10.2007 to 30.9.2008 by setting aside the order confirming the service tax demands on the advances received from the applicants for membership as reported in **2020-TIOL-500-CESTAT-BANG**. He submits that the said order has not been appealed and hence, attained finality. It is his contention that, therefore, contrary stand now taken by the Revenue in the present appeals cannot be sustained. In support, he referred to the following judgments:

- (i) ***CCE vs. Bigen Industries Ltd.: 2006 (197) ELT 305 (SC)***
- (ii) ***Marsons Fan Industries vs. CCE: 2008 (225) ELT 334 (SC)***
- (iii) ***CCE vs. ITC Ltd.: 2021 (50) GSTL 339 (Kar.)***

4. Further, he has submitted that the impugned orders are contrary to the provisions of Sections 65(25a) of the Finance Act, 1944 as the appellant is an incorporated body being a registered society under Mysore Societies Registration Act, 1960, in fact, not disputed by the Revenue. He has submitted that levy of Service Tax on the fees paid by the members to the club is no more *res integra* covered by the judgment of the Hon'ble Supreme Court in the case of **State of West Bengal & Ors. Vs. Calcutta Club Association: 2019 (29) GSTL 545 (SC)**.

5. The learned AR for the Revenue reiterated the findings of the learned Commissioner(A).

6. Heard both sides and perused the records.

7. The common issue involved in all these appeals is: leviability of Service Tax on advance entrance/admission fee collected by the appellant from the applicants under the category of "Club or Membership Association Service" during the relevant period.

8. We find that the Hon'ble Supreme Court analysing the leviability of Service Tax on the Membership fees collected by club or association in the case of **Calcutta Club Ltd.** (supra) held that Companies and Cooperative Societies which are registered under the respective Acts being constituted bodies under this Acts were not included in the Service Tax prior to 1.7.2012. Their Lordships observed as:

"73. It is, thus, clear that companies and cooperative societies which are registered under the respective Acts, can certainly be said to be constituted under those Acts. This being the case, we accept the argument on behalf of the respondents that incorporated clubs or associations or prior to 1st July, 2012 were not included in the Service Tax net."

Thus, the membership fees collected by a registered club or associations is held to be not leviable to service tax. Besides, we find that this Tribunal in appellant's own case decided the issue in favour of the appellant for a different period following the above ratio of the Hon'ble Supreme Court.

9. In view of the above findings, we do not see any merit in the impugned orders and set aside the same. Consequently, all these appeals are allowed with consequential relief, if any, as per law.

(Operative portion of the Order was pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

rv