

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

REGIONAL BENCH - COURT NO. 1

**Service Tax Appeal No. 21517 of 2016**

(Arising out of Order-in-Appeal No. COC-EXCUS-000-APP-133-16-17 dated 29.06.2016 passed by the Commissioner of Central Excise, Customs & Service Tax (Appeals-I), Cochin.)

**M/s. Lotus Club**  
Warriam Road,  
Cochin - 682 016.

Appellant(s)

*VERSUS*

**The Commissioner of Central Excise**  
Cochin Commissionerate,  
C.R. Buildings, I.S. Press Road,  
Cochin - 682 018.

Respondent(s)

**WITH**

**Service Tax Appeal No. 20433 of 2017**

(Arising out of Order-in-Appeal No. COC-EXCUS-000-APP-386-16-17 dated 24.11.2016 passed by the Commissioner of Central Excise, Customs & Service Tax (Appeals-I), Cochin.)

**M/s. Lotus Club**  
L.F.C Road, Kaloor Post,  
Cochin - 682 017.

Appellant(s)

*VERSUS*

**The Commissioner of Central Excise**  
Cochin Commissionerate,  
C.R. Buildings, I.S. Press Road,  
Cochin - 682 018.

Respondent(s)

**APPEARANCE:**

Shri Gaurav Shah, Chartered Accountant for the Appellant  
Shri Rajashekar B.N.N, Superintendent (AR) for the Respondent

**CORAM:**

**HON'BLE MR. P. A. AUGUSTIAN, MEMBER (JUDICIAL)**  
**HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 21819 - 21820 /2025**

DATE OF HEARING: 12.11.2025

DATE OF DECISION: 18.11.2025

**PER: P.A. AUGUSTIAN**

The issue in the present appeals is regarding service tax liability on the appellant against Membership fee paid to Club or Association Service. Alleging that the appellant had not paid service tax, proceedings were initiated and show-cause notices were issued. In Appeal No.ST/21517/2016, the dispute is with regard to demand of service tax on 'Membership of Club or Association Service' for the period from 2005-06 (from 16.06.2005) to 2008-2009. Thereafter, the adjudicating authority vide Order-in-Original No.108/2011/ST dated 29.11.2011 confirmed the demand of service tax under 'Membership of Club or Association Service' for the period from 2005-06 (from 16.06.2005) to 2008-09 and dropped the demand of service tax on account of 'renting of immovable property service' for the period 16.6.2005 to 2008-09. The adjudicating authority also imposed penalty under various provisions of law. Aggrieved by said order, an appeal was filed before the Commissioner (A). The Commissioner (A) by impugned order dated 29.06.2016 held that the contention of the appellant does not merit consideration since the appellant is not registered under charitable organization and has not produced/submitted any documents in this regard. Aggrieved by said order, appeal No.ST/21517/2016 has been filed.

2. Appeal No.ST/20433/2017 pertains to demand of service tax on Membership Fee of Club or Association for the period from 2009-10 to 2010-11 and demand of service tax on 'renting of immovable property service' for the period from 2009-2010 to

2011-2012. On adjudication, the adjudicating authority classified the service as falling under 'Renting of Immovable Property and Sponsorship Services' and confirmed the demand under the category of 'Club or Membership' for the period 2009-10 to 2010-11 but dropped the demand for the year 2011-12 on the ground that the appellant had started paying service tax on room rent from 7/2011 only and they have been availing 50% abatement on the value of the room rent for the payment of service tax under Accommodation Service and as no bifurcation of amount in respect of room rent and other receipts towards 'Club or Association Membership Service' has been made in the Show Cause Notice for the Financial Year 2011-12, especially since the appellant has started paying service tax on 'Hotel, Inn, Club and Guesthouse Service' from July 2011. As regarding demand on 'renting of immovable property service', the demand for the period from 2009-10 to 2011-12 was confirmed but dropped the demand for the period 2007-2009. Demand against 'Sale of Space and Time for Advertisement' was also dropped. Aggrieved by said order, appeal was filed before the Commissioner (A) and vide impugned order dated 24.11.2016, Commissioner (Appeals) partially allowed the appeal by dropping the demand under guest house fee and guest house rent for the period prior to 1.5.2011. since the show-cause notice was issued and demand confirmed vide Order-in-Original No.108/2011/ST dated 29.11.2011 on the same issue for the previous period, the proposal for penalty was also dropped. Aggrieved by said order, appeal No.ST/20433/2017 is filed. As regarding the demand under guest house fee and guest house rent for the period after 1.5.2011, Learned Counsel submits that they are not pressing for the same as it is settled in favour of the Revenue. Thus, the only issue to be considered in the present appeals is regarding service tax demand on membership fee/subscription charges

under 'Membership of Club or Association Service' and the learned Chartered Accountant (CA) submits that the issue is no longer *res integra* as it stands settled as per the judgment of the Hon'ble Supreme Court in the matter of **State of West Bengal vs M/s Kolkata Club Ltd (2019 (29) GSTL 545 (SC))**

3. The Learned Authorised Representative (AR) for the Revenue reiterated the findings in the impugned orders.

4. Heard both sides and perused the records. As regarding demand of service tax on the membership fee, the demand is unsustainable since the issue is squarely covered by the judgment of the Hon'ble Supreme Court in the matter of **State of West Bengal vs M/s Kolkata Club Ltd** (supra). Thus penalty imposed as per the impugned order is also unsustainable.

5. Accordingly, Appeals are allowed with consequential relief, if any, in accordance with law.

(Order pronounced in Open Court on 18.11.2025.)

**(P. A. AUGUSTIAN)**  
**MEMBER (JUDICIAL)**

**(R. BHAGYA DEVI)**  
**MEMBER (TECHNICAL)**

rv