

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

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 21346 of 2016

(Arising out of Order-in-Original No. 08/2016-17 dated 15.06.2016
passed by the Commissioner of Service Tax-II, Commissionerate,
Bangalore.)

**M/s. Electronics City Industries
Association,**
7(P), Electronics City, Phase II,
Hosur Road, Bangalore – 561 229.

Appellant(s)

VERSUS

**Commissioner of Service Tax,
Service Tax-II
Commissionerate,**
4th Floor, TTMC, BMTC,
Domlur, Bangalore – 560 071.

Respondent(s)

APPEARANCE:

Mr. Akbar Basha, Chartered Accountant for the Appellant

Mr. Rajashekar B.N.N, Superintendent (AR) for the Respondent

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R. BHAGYA DEVI, MEMBER
(TECHNICAL)**

Final Order No. 22127/2025

DATE OF HEARING: 23.12.2025

DATE OF DECISION: 23.12.2025

PER : DR. D.M. MISRA

This is an appeal filed against Order-in-Original No.
08/2016-17 dated 15.06.2016 passed by the Commissioner of
Service Tax-II Commissionerate, Bangalore.

2. Briefly stated the facts of the case are that as a result of the audit of the records of the appellant for the period April 2007 to March 2011, it came to the knowledge of the Department that the appellant had short paid service tax amounting to Rs.54,45,709/- for the period April 2009 to March 2011 relating to Renting of Immovable Property Services and Rs.29,22,154/- for the period 2006-2007 relating to Membership of Clubs or Association Services. Consequently, show-cause notice was issued to them on 24.04.2012 for recovery of service tax of Rs.54,45,709/- and Rs.29,22,154/- along with interest and penalty. On adjudication, the learned Commissioner dropped demand of Rs.46,59,635/- for the period 2009-2010 and 2010-2011 confirmed the amount of Rs.7,86,074/-; also confirmed the demand of service tax of Rs.29,22,154/- for the period 2006-2007 along with interest and imposed penalty of equivalent amount under Section 78 and penalty under various provisions of Finance Act, 1994. Hence, the present appeal.

3.1. At the outset, learned consultant for the appellant has submitted that the appellant is an association registered under the Society Registration Act, 1960 on 24.02.2005. Referring to the Memorandum and Bye-laws, learned consultant has submitted that the association has been formed to provide, as a common forum, needed services to the member industries situated within the jurisdiction. The activities relate to maintenance, upkeep, development, beautification, improvements, addition of infrastructure etc. in the entire industrial area designated as Electronic City. In furtherance of the said objective, the appellant charged entrance fees, membership fees etc. which the Department alleged to fall under the scope of Membership of Clubs or Association Services and consequently, the demand has been raised. He has submitted that the issue is squarely covered by the judgment of the Hon'ble Supreme Court in the case of State of West Bengal and Ors. Vs. Calcutta Club Ltd. [2019-TIOL-449-SC-ST-LB]. Besides, he has submitted that the appellant during the initial period i.e.

2006-2007 under *bona fide* belief that the services rendered by the association to its members do not fall under the category of Membership of Clubs or Association Services, had not paid service tax; however, from 2007 onwards they registered and discharged service tax. Since all the facts were within the knowledge of the Department, therefore demanding service tax invoking extended period of limitation is unsustainable, hence the demand confirmed against the appellant is barred by limitation. Also, a portion of the demand for the period April 2006 to September 2006 is beyond the period of 5 years.

3.2. On the issue of confirmation of demand of Rs.7,86,074/-, the learned advocate has submitted that in the impugned order, against the short payment of duty of Rs.54,45,709/-, the adjudicating authority has dropped the demand of Rs.46,59,635/- acknowledging the payment made during the period 2010-11; however, he has confirmed the demand of Rs.7,86,074/- without taking note of the fact that during the said period, excess payments were made during the month of April, June and July amounting to Rs.34,043/-, Rs.6,40,657/- and Rs.1,20,216/-. If these excess payments are taken into account, there would not be any short fall of Rs.7,86,074/- as held by the learned Commissioner in the order. On the contrary there is an excess payment of Rs.8,841/- during the same period.

4. The Learned AR for the Revenue has reiterated the findings of the learned Commissioner (Appeals).

5. Heard both sides and perused the records.

6. Undisputedly, the appellant is registered under the Society Registration Act, 1960 in the name and style as 'Electronics City Industries Association'. In furtherance of the objective of the society principally to upkeep and maintain the areas in or and around the Electronic City. The appellant collects certain charges from the members which are exclusively used for the benefit of

the members of the association. The issue whether the service tax is leviable on such charges collected by the Association from its member is no more *res-integra* and settled by the Hon'ble Supreme Court in the case of State of West Bengal and ORS Vs. Calcutta Club Ltd. (Supra). The relevant portion is observed as follows:

"3. We find that the levy of service tax on the members under the category of 'Club or Association Service' is squarely covered by the judgment of **State of West Bengal vs. Calcutta Club Limited: 2019 (29) G.S.T.L. 545 (S.C.)**. This Tribunal in a similar set of facts and circumstances in the case of **M/s. Karnataka State Cricket Association vs. Commissioner of Service Tax, Bangalore vide Final Order No. 21048/2025 dated 21.07.2025** observed as:

"9. On the issue of demand of service tax on 'club or association service', it is not in dispute that the appellant had allotted available rooms at its premises to their members on rental basis and the same was accounted for in their books of account. We find that the services rendered by the appellant to their members cannot be leviable to service tax under the club or association service as held by the Hon'ble Supreme Court in the case of State of West Bengal Vs. Calcutta Club Limited (supra) and followed by this Tribunal in the appellant's own case [Final Order No.20186/2025 dated 21.02.2025 in appeal No.ST/27635/2013]. Therefore, the demand confirmed on this count is liable to be set aside."

7. Following the aforesaid ratio laid down by the Hon'ble Supreme Court, the demand of Rs.29,22,154/- confirmed on Membership of Clubs or Association Service is set aside.

8. On the issue of confirmation of demand of short payment of duty of Rs.7,86,074/- during the financial year 2009-10, we find that the appellant in their written submissions has demonstrated that during the months of April, June and July, excess payment of Rs.34,043/-, Rs.6,40,657/- and Rs.1,20,216/- respectively made by them. If the said excess

payments are considered, then there is no short payment of tax. It is contended that the said excess payment though brought to the notice of the adjudicating authority, it has been ignored. We find merit in the contention of learned advocate. Consequently, demand on this account is also unsustainable.

9. In view of the above, confirmation of demand of Rs.7,86,074/- and Rs.29,22,154/- with interest and also imposition penalty are set aside and appeal is disposed of accordingly.

(Operative part of this Order was pronounced in Open Court
on conclusion of the hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

Gb/Raja...