CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No.21968 of 2014

[Arising out of Order-in-Appeal No.9 to 13/2014-ST dated 06.01.2014 passed by the Commissioner of Central Excise, Customs and Service Tax (Appeals), Cochin]

T. Asuma Beevi,
Kohinoor, New Ambujavilasom,
Trivandrum, Kerala-682 036.

Appellant(s)

VERSUS

Commissioner of Central Excise, Customs and Service Tax-Cochin-cce
C.R.Building,
I.S. Press Road, Ernakulam,
Cohin-682 018, Kerala.

Respondent(s)

WITH

1. **Service Tax Appeal No.21970 of 2014 (T. Kamaluddin Musaliyar Vs. Commissioner of Central Excise, Customs and Service Tax, Cochin)**

2. **Service Tax Appeal No.21971 of 2014 (T. Abdul Karim Musaliyar Vs. Commissioner of Central Excise, Customs and Service Tax, Cochin)**

3. **Service Tax Appeal No.21973 of 2014 (T. K Jalaluddin Musaliyar Vs. Commissioner of Central Excise, Customs and Service Tax, Cochin)**

4. **Service Tax Appeal No.21974 of 2014 (T. K. Usman Musaliyar Vs. Commissioner of Central Excise, Customs and Service Tax, Cochin)**

[Arising out of Order-in-Appeal No.9 to 13/2014-ST dated 06.01.2014 passed by the Commissioner of Central Excise, Customs and Service Tax (Appeals), Cochin]

APPEARANCE:

None Appeared for the appellants.

Mr. Vinod Kumar Garhwal, Superintendent (AR) for the Revenue.

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

FINAL ORDER NO. 20136, 20150-20153 /2026

DATE OF HEARING: 03.02.2026
DATE OF DECISION:03.02.2026

PER: D. M. MISRA

These appeals are filed against Order-in-Appeal No.9-13/2014-ST dated 06.01.2014 Passed by the Commissioner of Customs and Service Tax (Appeals), Cochin.

2. Briefly stated the facts of the case are that all the appellants are joint-owners of the immovable properties situated at Kollam East Village, Kollam and Mangad Village, Kollam. The said properties were given on rent. Renting of Immovable Property became taxable with effect from 01.06.2007; consequently, a show-cause notice dated 13.03.2012 was issued to them jointly and severally for recovery of demand of Rs.2,19,658/- with interest and penalty. Aggrieved by the said order, they filed appeals before the learned Commissioner (A), who upheld the order of adjudicating authority. Hence, the present appeals.

3. At the outset, the learned counsel for the appellant submitted that the properties are owned jointly by appellants and the rent against the properties was received individually by each of the appellant. They filed income tax returns separately and accordingly, claimed the benefit of service tax exemption Notification No.6/2005-ST dated 01.03.2005 up to a turnover limit as prescribed under the said Notification. However, the benefit of the said Notification was denied and the entire amount was assessed to service tax by the adjudicating authority and upheld by the learned Commissioner (A). He submits that the issue is squarely covered by this Tribunal in the case of **Sarojen Kushalchand vs. CST, Ahmedabad: 2017 (4) GSTL 159 (Tri.-Ahmd.)**, later followed in cases of **Kamelshkumar K. Kotecha and Mukund R. Palan vs. CST, Rajkot: 2025 (35) Centax 111 (Tri.-Ahmd.)** and **Ramesh Kumar Chaudhary vs. CST, Delhi-IV: 2025 (26) Centax 147 (Tri.-Chan.)**.

4. Learned Authorised Representative (AR) for the Revenue reiterated the findings of the learned Commissioner (A).

5. Heard both sides and perused the records. Undisputedly, the appellants jointly owned the properties situated at Kollam East Village, Kollam and Mangad Village, Kollam, which has been given on rent. The rent amount received by the appellant was assessed to service tax without allowing the benefit of Notification No.6/2005-ST dated 01.03.2005 to each of the owners. We find that the issue of admissibility of benefit of the Notification No.6/2005-ST dated 01.03.2005 in similar circumstances has been addressed by this Tribunal in **Sarojen Kushalchand** (supra). After analysing the issues in detail, the Tribunal has observed as follows:

> **"9.** We find force in the contention of the ld. Advocates representing the respective appellants inasmuch as 'association of persons' has been considered as a separate legal entity under the Income-tax Act for assessment and provided separate PAN number different from the PAN number possessed by individual co-owners; who joined together to form an 'association of persons'. In the present case, the show cause notices were issued in many cases to one person among the Joint owners and in other cases to all the persons who had jointly owned the immovable property provided on rent. Needless to mention, the Service Tax Registration of individual assessees for collection of Service Tax is PAN based, hence, collection of Service Tax from one of the co-owners, against his individual Registration for the total rent received by all co-owners separately, is neither supported by law nor by laid down procedure. Thus, it is difficult to accept the proposition advanced by the Revenue that all the co-owners providing the service of renting of immovable property be considered as an association of persons and the Service Tax on the total rent be collected from one of the co-owners. Another argument of the Revenue is that since the property is indivisible and not earmarked against each of the co-owners, hence the Service Tax is leviable on the total rent received against the said property without apportioning against each of the co-owners in proportion to their share. We find fallacy in the said argument of the Revenue. Conceptually Service

Tax is levied on the service provided, which is an intangible thing and hence it is not necessary to be identified with physical demarcation of the immovable property given on rent against individual co-owners. Once the value of service provided by a service provider is ascertainable Service Tax is accordingly charged. This Tribunal in similar facts and circumstances in the cases of *Deoram Vishrambhai Patel*, *Anil Saini & Others* and *Luxmi Chaurasia* (supra) after considering the issues raised, rejected the contention of the Revenue and allowed the benefit of exemption Notification No. 6/2005-S.T., dt.1-3-2005 as amended to individual co-owners who jointly owned the property and provided the service of renting of immovable property, and received the rent in proportion to the shares in the immovable property."

6. The said judgment has been subsequently followed by this Tribunal. Therefore, we do not find see any reason not to follow the said judgment. Consequently, following the said judgment, appeals are allowed with consequential relief, if any, as per law.

(Operative portion of the order of pronounced in Open Court
on conclusion of hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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