CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH – COURT NO. 1

ST/CROSS/50/2010 in Service Tax Appeal No. 947 of 2009,
Service Tax Appeal No. 947 of 2009

(Arising out of Order-in-Original No. 40/2009 dated 03/09/2009 passed by Commissioner of Central Excise and Service Tax, BANGALORE-I)

Commissioner Of Central Tax, **....Appellant**
Bangaluru South Commissionerate
5TH FLOOR, C.R. BUILDINGS, PB NO-5400,
QUEENS ROAD
BANGALORE - 560001

VERSUS

M/s Karnataka Golf Association **....Respondent**
No.1, Golf Avenue, Kodihalli Off Airport Road,
Bangalore-560008

WITH

Service Tax Appeal No. 949 of 2009

Arising out of Order-in-Original No. 40/2009 dated 03/09/2009 passed by Commissioner of Central Excise and Service Tax, BANGALORE-I)

M/s. Karnataka Golf Association, Bangalore **....Appellant**
No 1 Golf Avenue, Kodihalli Off Airport Road, Bangalore -560008

VERSUS

Commissioner of Service Tax **....Respondent**
Bangalore Service Tax- I
1ST TO 5TH FLOOR,
TTMC BUILDING,above BMTC BUS STAND,DOMLUR
BANGALORE, - 560071
KARNATAKA

APPEARANCE:

Sh. K.S. Ravi Shankar, Advocate
No. 152(18), Race Cource
Bangalore, - 560001
Karnataka

For the Appellant

Sh. P.Gopakumar, Joint Commissioner (AR) — For the Respondent

CORAM: HON'BLE MR. ANIL CHOUDHARY, JUDICIAL MEMBER
HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

FINAL ORDER NO. 20198-20199 /2020

DATE OF HEARING: 17.02.2020
DATE OF DECISION: 17.02.2020

PER: ANIL CHOUDHARY

Heard the parties.

2. As with the consent of the parties, we have also taken the Revenue's cross Appeal arising out of the common impugned order, which is fixed day after tomorrow being Appeal No. ST/947/2009.

3. The issue involved in this appeal by the assessee is whether the appellant is liable to pay Service Tax on "advance entrance/enrollment fee" collected from prospective members.

4. Learned Authorized Representative for the Revenue relied upon the impugned order.

5. Considering the rival submission and on perusal of the impugned order, we find that the issue herein is squarely covered in favour of the appellant/assessee by Hon'ble Supreme Court in the case of *State of W. Bengal Vs Calcutta Club Ltd., 2019 (29) GSTL 545 (SC)* and also by the Hon'ble Jharkhand High Court in the case of *Ranchi Club Ltd Vs chief CCE & ST, 2012 (26) STR 401 (Jhar.).*

6. Accordingly, we allow this appeal No. ST/949/2009 by the appellant and dismiss the appeal No. ST/947/2009 by the Revenue which has been filed only for dispute of amount of penalty. We also take note that

it has been held by the Hon'ble Supreme Court and High Court, there being mutuality of interest between the club and its members, there is no transfer of ownership of the service and accordingly, both the appeals and cross objection are disposed of in above terms.

(Dictated and pronounced in open court)

(ANIL CHOUDHARY)
JUDICIAL MEMBER

(P. ANJANI KUMAR)
TECHNICAL MEMBER

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