CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

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REGIONAL BENCH – COURT NO. 1

Appeal No. ST/1207/2011 -[DB]

(Arising out of Order-in-Original No. CHD-CEX-001-COM-015-11 dated 06.05.2011 passed by the Commissioner of C.E. & S.T, Chandigarh-I)

M/s Confederation of Indian Industry **......Appellant**
(Northern Region, Sector 31A,
Chandigarh - 160030)

VERSUS

Commissioner of C.E. & S.T, Chandigarh-I **......Respondent**
(Plot No. 19, Central Revenue Building,
Sector 17C, Chandigarh - 160017)

APPEARANCE:
Shri Rajesh Kumar, Advocate for the Appellant
Ms. Geetika, Authorised Representative for the Respondent

CORAM : HON'BLE Mr. ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE Mr. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

ORDER No. A/60115 / 2020

Date of Hearing:22.01.2020

Date of Decision:22.01.2020

Per : Mr. Ashok Jindal

The appellant is in appeal against the impugned order demanding service tax under the category of 'Club & Association Service' in terms of Section 65 (25a) of the Finance Act, 1994 for the period 16.06.2005 to 31.12.2008.

2. The facts of the case are that the appellant is providing the service of Mandap Keeper Services, Exhibition Services, Management Consultancy Services, Sponsorship Services and Club and Association Services, Advertising & Conventions Services, they were paying service tax thereon. During the course of Audit, it was found that the appellant was collecting membership subscription from its members but started paying service tax only w.e.f. 01.01.2009, but prior to that the membership subscription they have not paid service tax under the
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category of 'Club & Association Services' during the period 16.06.2005 to 31.12.2008. Therefore, the show cause notice was issued to the appellant and demand on service tax was confirmed against them. Against the said order, the appellant is before us.

3. Ld. Counsel appearing on behalf of the appellant submits that the appellant is not liable to pay service tax for membership subscription as levy of service tax in respect of services provided by the appellant to its member is not liable to pay service tax as held by the Hon'ble Apex Court in the case of ***State of West Bengal & Ors. Vs. Calcultta Club Limited in Civil Appeal Number 4184 of 2009 vide order dated 03.10.2019***. Therefore, the impugned order is to be set-aside.

4. On the other hand, the Ld. AR supported the impugned order.

5. Heard the parties.

6. Considering the fact that the issue arises from the facts of the case are that whether on the membership subscription paid by the members of the appellant is liable to be service tax under 'Club & Association Services' or not?

The said issue has been dealt by the various High Courts in the case of ***Ranchi Club Ltd***. Against the said order, the appeal has been filed by the Revenue before the Hon'ble Apex Court in Civil Appeal Number 7497 of 2012 is also dismissed.

7. Further issue has been dealt by the Hon'ble Gujarat High Court in the case of ***Federation of Surat Textile Traders Association vs. UOI [2017 (52) STR 478 (Gujarat)]*** and in the case of ***Calcutta Club Limited (supra)*** wherein it has been held that the services provided by the assessee to its members is not liable to pay service tax.

8. In the case of ***Calcutta Club Limited (supra)*** the Hon'ble Apex Court further observed that as under:-

> *"84. We are therefore of the view that the Jharkhand High Court and the Gujarat High Court are correct in their view of the law in following Young Men's Indian Association (supra). We are also of the view that from 2005 onwards, the Finance Act of 1994 does not purport to levy service tax on members' clubs in the incorporated form."*

9. As the issue has already settled that no service tax is payable on membership subscription paid by the members of the appellant for

providing services by the appellant to its members, therefore, we hold that the appellant is not liable to pay service tax. Consequently, the impugned order deserves no merit hence set-aside.

10. In result, the appeal is allowed with consequential relief, if any.

(Dictated & pronounced in the Court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

G.Y.