IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
SOUTH ZONAL BENCH AT CHENNAI

ST/41499/2017

(Arising out of Order-in-Appeal No. 1/2017 dated 23.03.2017 passed by the Commissioner of Central Excise (Appeals), Coimbatore).

M/s. Wild Orchid Estates Owners Association : Appellant

Vs.

CCE & ST, Salem : Respondent

Appearance

Shsri T. Vasudevan, Advocate
for the appellant

Shri S. Govindarajan, AC (AR)
for the Respondent.

CORAM :

Hon'ble Ms. Sulekha Beevi, Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing/Decision: **02.03.2018**

FINAL ORDER No**.** **<u>40560/2018</u>**

Per Bench

Brief facts are that the appellant is registered under the Societies Registration Act. The activities of the appellant association is to do agricultural activities and also to maintain estate roads, street lights in the estate, water pipelines, security, safety of the estate etc., in accordance with the bylaws of the association. The department was of the view that the appellant is engaged in providing services in the nature of club or association service and are liable to discharge service tax on the interest earned from the corpus deposit. SCN was issued for the period April 2010 to March 2014. After due process of law, the original authority confirmed the demand, interest and imposed penalties. Being aggrieved, appellants filed appeal before the Commissioner (Appeals), who vide the impugned order herein upheld the same. Hence, appellants are now before the Tribunal.

2. On behalf of the appellant, the Ld. Counsel, T. Vasudevan submitted that the appellant is an association carrying on agricultural activities like maintenance of estate road, lights, security etc. They do not collect any subscription from any members of the society. The owners of the estate are liable to become a member by paying a fixed amount as corpus fund. This amount is deposited by the association in the bank and the association derives interest from such deposits which is used for maintenance works and association activities. The interest received is nothing but money owned by the association and it is not received from the estate owners. The interest received by the appellant from the bank cannot be categorized as a consideration received for the services rendered by the association under 'Club or Association service'. That therefore the demand cannot sustain. He relied upon the decision in the case of M/s. Cosmopolitan Club & Others, vide Final Order No.40366 – 40385/2018 dated 06.02.2018.

3. The Ld. AR, Shri S. Govindarajan, AC, reiterated the findings in the impugned order.

4. Heard both sides.

5. On perusal of records as well as after hearing the submissions made by both sides, we find that the demand is raised on the interest received by the appellant association from the bank. Such interest cannot be considered as a consideration received for any service rendered by it to its members. It is stated by the appellant that they are not collecting any subscription from the members of the association and the money deposited is a corpus fund in the bank earns interest out of which the association is providing maintenance activities in the farms/estates. The accrued interest received from the bank on an amount deposited cannot be treated as "subscription". We are, therefore, of the view that the impugned demand cannot sustain and requires to be set aside, which we hereby do. The appeal is allowed with consequential reliefs, if any, as per law.

(Operative part of the order pronounced in the open Court)

(MADHU MOHAN DAMODHAR)	(SULEKHA BEEVI C.S.)
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)

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