FAX : 011-26108426 **REGISTERED / AD**

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: **20/01/2016**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/53863/2015-CU[DB]** dated **30/11/2015**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section **01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.**

Deputy/Asstt. Registrar (CUSTOMS Appeal Branch)

	Application	Appeal	Name and Address of Appellant
1	ST/Stay/50856/2014	ST/50707/2014	**Kota Club Ltd** 8 K.m On Kaithoon Road Dhakalkeri KOTA RAJASTHAN 324001
			Name and Address of Respondent
2			C.C.E. & S.T.-Jaipur-i NCR BUILDING, STATUE CIRCLE, C-SCHEME, JAIPUR, RAJASTHAN-302005

Copy To

3 Advocate(s) / Consultant(s):

V. Lakshmi Kumaran
5, Jangpura Extension,
Link Road,New Delhi,
Delhi-110014

4 Additional Party's Name & Address :
5 Bar Association, CESTAT, Delhi
6 Director Publications, Customs, Excise. I.P. Estate, Delhi
7 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
8 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
9 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
10 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
14 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
15 C.D.R. 16 Office Copy 17 Guard File

21/1/16

Deputy/Asstt. Registrar(CUSTOMS Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 30.11.2015

Stay Application No.50856 of 2014 and Service Tax Appeal No.50707 of 2014

Arising out of the order in appeal No.167(VC)ST/JPR-I./2013 dated 29.10.2013 passed by the Commissioner (Appeals), Central Excise, Jaipur I.

For approval and signature:

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R.K. Singh, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 26 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

Kota Club Limited .. Appellants

Vs.

C.C.E., Jaipur I .. Respondent

Appearance:

Present Shri Narendra Singhvi, Advocate for the appellants
Present Shri Amresh Jain, A.R. for the respondent

Coram: Hon'ble Mr. Justice G.Raghuram, President
Hon'ble Mr. R.K. Singh, Technical Member

Final Order No . 53863/2015

Per R.K. Singh:

Stay application alongwith appeal has been filed against order -in-appeal dated 29/10/2013 which upheld the order- in -original dated

30.8.2011 in terms of which service tax demand of Rs.28,13,711/- was confirmed under Club or Association Service for the period 14/11/2005 to 31/03/2009.

2. Ld. advocate for the appellant pleads that the case is squarely covered by the judgement of CESTAT in the case of Federation of Indian Chambers of commerce and industry vs Commissioner - 2015 (38) STR 529 (Tri - Delhi) and the Gujarat High Court judgement in the case of Sports Club of Gujarat Ltd vs. Union of India - 2013 (31) STR 645 (Gujarat).

3. Ld. A.R. for Revenue conceded that the FICCI judgement covers the issue and ~~has~~ had no objection if the appeal ~~is~~ was taken up for final hearing. Accordingly we take up the appeal after waiving the requirement of pre-deposit.

4. As has been conceded by ld. A.R., the issues involved in the present appeal is settled in favour of the appellant by CESTAT judgement in the case of Federation of Indian Chambers of commerce and industry (supra) wherein it was held that service provided by Federation of Indian Chambers of commerce and industry to their respective members did not fall within the ambit of taxable "Club or Association Service". It was further held that the service provided by Federation of Indian Chambers of commerce and industry to non-members prior to 01/05/2011 fell outside the ambit of Club or Association Service. Gujarat High Court in the case of Sports Club of Gujarat Ltd (supra) held that section 65 (25a)/(105)(zzze) is ultra vires and beyond legislative competence of Parliament. Accordingly we set aside the impugned order and allow the appeal.

(Justice G. Raghuram)
President

(R.K.Singh)
Technical Member

scd/