IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Decision: 23.3.2017

Appeal No. ST/56871/2013-SM

(Arising out of Order-in-Appeal No. 10(RDN) ST/JPR-II/2013 dated 9.1.2013 passed by the Commissioner (Appeals), Central Excise, Jaipur)

M/s Umed Club — Appellant

Vs.

CCE, Jaipur-II — Respondent

Appearance

Shri Pradeep Jain, C.A. - for the appellant

Shri D. Singh, D.R. - for the respondent

CORAM: **Hon'ble Mr. Ashok K. Arya, Member (Technical)**

Final Order No. 52530/2017

Per Ashok K. Arya :

The appellant viz. M/s Umed Club is in appeal against the Order-in-Appeal No. 10/2013 dated 9.1.2013 passed by Commissioner (Appeals), Jaipur whereunder demand of service tax against the rent for rooms provided to guests of the Members during the period 2005-2006 and 2006-2007 has been confirmed.

2. The appellant has been represented by ld. CA, Shri Pradeep Jain and Department has been represented by ld. DR, Shri D. Singh.

3. After hearing both the sides and on perusal of the facts on record, it appears that the subject matter is covered by CESTAT decision in appellant's own case viz. M/s Umed Club Vs. CCE, Jaipur-II – Final Order No. 54919/2016 dated 24.10.2016 where under it has been observed as under :

> "3. We find that the services rendered by the appellant are covered by the following judgements:-
>
> (i) ***Ranchi Club Ltd. Vs. CCE & ST, Ranchi*** – 2012 (26) STR 401 (Jhar.);
>
> (ii) ***Sports Club of Gujarat Ltd. Vs. Union of India*** – 2013 (31) STR 645 (Guj.);
>
> (iii) ***Karnavati Club Ltd. Vs. Union of India*** – 2010 (20) STR 169 (Guj.).
>
> 4. As the services rendered by the appellant are in the category of 'self service' and are covered by the principles of mutuality of interest and 'self service' by following the decisions of Hob'ble Gujarat High Court in the case of ***Sports Club of Gujarat Ltd. Vs. Union of India*** (supra) and of the Hon'ble High Court of Jharkhand in the case of ***Ranchi Club Ltd. Vs. CCE & ST, Ranchi*** (supra), we set aside the impugned order and allow the appeal."

4. The ld. DR has argued that service tax is liable in the present case as facility of rooms was utilised by the guests of the Members. However, this is on record that this facility of giving rooms to the guests of Members was not on the basis of commercial basis but on account of service to the Members only. This service of providing rooms to Member's guests therefore will be covered under the category of service to the Members of the club Therefore, in the

light of CESTAT decision (supra), the said services is not chargeable to service tax under "club or association service".

5. In the result, the impugned order is set aside and the appeal is allowed with consequential relief, if any.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

RM