



सत्यमेव जयते

आयुक्त (अपील) का कार्यालय,
Office of the Commissioner (Appeal),
केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद
Central GST, Appeal Commissionerate, Ahmedabad
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
☎ 07926305065- टेलीफैक्स 07926305136



स्पीड पोस्ट

- क फाइल संख्या : File No : V2(ST)18/EA-2/Ahd-South/2019-20/14810 TO 14814
- ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-001-APP-010-2020-21
दिनांक Date : 22-04-2020 जारी करने की तारीख Date of Issue 12/06/2020
आयुक्त (अपील) द्वारा पारित
Passed by Shri Akhilesh Kumar, Commissioner (Appeals)
- ग Arising out of Order-in-Original No. CGST/DN-VI/03/DEM/SKC/Gujarat/19-20 दिनांक:
17.06.2019 , issued by Assistant Commissioner, Div-VI, Central Tax, Ahmedabad-South
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
Gujarat Urban Co-operative Banks Federation Ltd
Ahmedabad

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person aggrieved by this Order-In-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way :

भारत सरकार का पुनरीक्षण आवेदन :

Revision application to Government of India :

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली : 110001 को की जानी चाहिए।

(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रक्रिया के दौरान हुई हो।

(ii) In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.



- (क) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।
- (A) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.
- (ख) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।
- (B) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.
- अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।
- (c) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.
- (1). केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।
- The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.
- (2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।
- The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.
- सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.
- (1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-
Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-
- (क) उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में 2nd माला, बहुमाली भवन ,असरवा ,गिरधरनागर,अहमदाबाद -380004
- (a) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2nd floor, Bahumali Bhawan, Asarwa, Girdhar Nagar, Ahmedabad : 380004. in case of appeals other than as mentioned in para-2(i) (a) above.



The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

- (3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellate Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

- (4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूची-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

- (5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

- (6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇒ यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील दाखिल करने के लिए पूर्व शर्त बना दिया गया है।

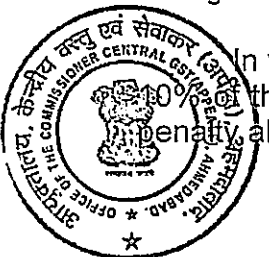
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."



ORDER-IN-APPEAL

This order arises out of an appeal filed by the Assistant Commissioner, Central GST, Division-VI, Ahmedabad South Commissionerate (in short '*appellant*') in terms of Review Order No.13/2019-20 passed under Section 84(1) of the Finance Act, 1994 (in short '*the Act*') by the Reviewing Authority against Order-in-Original No.CGST/DN-VI/03/DEM/SKC/Gujarat/2019-20 dated 17.06.2019 (in short '*impugned order*') passed by the Assistant Commissioner, Central GST, Division-VI, Ahmedabad South Commissionerate (in short '*theadjudicating authority*') in the case of M/s Gujarat Urban Co-Operative Bank Federation Ltd., Co-Operative Bank Bhavan, Ashram Road, Nr. Mithakali Under Bridge, Ahmedabad -380009 (in short '*respondent*').

2. The facts of the case, in brief, are that the respondent is a federal society duly constituted under Section 2(9) of the Gujarat Co-operative Societies Act, 1971 with an obligation to see the directions of the Reserve Bank of India (in short '*RBI*') to be complied with in a proper manner by the member banks. Powers are delegated to it under the legislation to supervise the function of the member Co-operative Banks. There are 230 urban Co-operative Banks as members in the respondent federation and all these urban Banks gets protection from the said federation in various aspects. While ensuring proper compliance of RBI guidelines/directions by the member banks, the respondent guide their member banks on various issues relating to banking, offering member banks business module for development of their business, training their member banks for capacity building, etc.

2.1 The respondent had been issued with Show Cause Notices (in short '*SCN*') dated 16.10.2015 and 13.04.2016 for non/short payment of service tax under Club and Association Services on income received by them under the heads like Administration fees, Annual subscription, stall income, Advertisement Income, etc. In line with the said Notices issued, a periodical SCN dated 18.02.2018 was issued to the respondent on the same issue demanding service tax amounting to Rs.58,622/- on an income of Rs.4,21,000/- received by them under the head 'Administrative Fees' for the period from April-2015 to March-2016 on similar grounds as in the previous Notices. The said SCN was adjudicated by the adjudicating authority vide the impugned order wherein he has dropped the demand by following the decision of the Commissioner (Appeals), Ahmedabad in Order-in-Appeal No.AHM-EXCUS-001-APP-254 & 255-17-18 dated 18.01.2018 on the ground of judicial discipline as the appellate authority has set aside the demand on the same issue against the respondent for the previous period from 2009-10 to 2014-15.

3. Aggrieved with the impugned order, the appellant Department has filed the present appeal mainly on the following grounds:

- (i) A conjoint reading of Section 65B(37) and Section 65B(44) of the Act clearly imply that any activity done, by the association or body of persons whether incorporated or

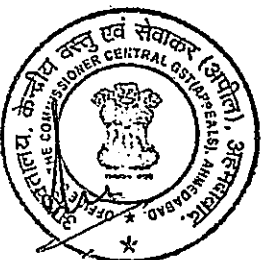


unincorporated, for any individual member thereof for some consideration would be termed as 'service' and would be liable to service tax;

- (ii) the adjudicating authority failed to appreciate that the doctrine of mutuality cannot be invoked in the present case as a legal fiction treating clubs and associations, whether incorporated or not, and their members as distinct persons is created in the Finance Act, 1994 itself. And in the present case, the respondent is an incorporated body having distinct existence from their members;
- (iii) the adjudicating authority has failed to appreciate that decision of the Hon'ble High Court of Gujarat in the case of Sports Club of Gujarat Vs. Union of India [2013 (13) STR 645 (Guj.)] is challenged by the department and the department appeal/SLP in the case is pending before the Hon'ble Supreme Court of India; and
- (iv) the respondent has declared less taxable value in the statutory ST-3 Returns filed by them during the period 2015-16 resulting in short payment of service tax on taxable value receipt as Club or Association /Admission fees. This suppression of value and resultant short payment of service tax makes a case of improper assessment caused by deliberate non-declaration and suppression of vital information with a wilful intention to evade payment of service tax and accordingly the ingredients for invoking extended period under proviso to Section 73(1) of the Act exist and therefore, it is a fit case to impose penalty on the said respondent under Section 78 of the Act.

4. The respondent vide their letter dated 19.12.2019 has submitted their Cross-Objection/Written submissions on the appeal filed by the department, the main contentions/objections of which are as under:

- (i) They are an incorporated entity constituted under Section 2(9) of the Gujarat Co-operative Societies Act, 1971 and the appellant nowhere disputed this aspect;
- (ii) One of the ground raised in the present appeal is that the SLP was preferred against the judgment of Gujarat High Court in the case of Sports Club of Gujarat Vs. Union of India [2013 (13) STR 645 (Guj.)] and therefore, reliance could not have placed by the adjudicating authority on the said judgment. However, the Hon'ble Apex Court by its detailed judgment dated 03.10.2019 [2019 SCC Online SC 1291] decided group of SLPs and specifically held that the Jharkhand High Court and the Gujarat High Court are correct in their view of the law in following Young Men's India Association and it is further held that from 2005 onwards, the Finance Act, 1994 does not purport to levy Service Tax on member's clubs in the incorporated form. Now, there is no room for any interpretation on this issue as the judgment delivered by the Hon'ble Apex Court already held in favour of the trade and therefore, the present appeal is required to be dismissed;



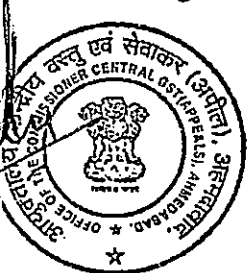
(iii)The Hon'ble Apex Court, in their above said decision, has clearly held that the companies and the cooperative societies which registered under the respective Acts, can certainly said to be constituted under those Acts, in that view of the matter, and there is no dispute on a fact that the respondent is constituted/incorporated under the Act, no service tax liability can be held against the respondent and therefore, the impugned order passed by the adjudicating authority was just and proper; and

(iv)The grounds raised with regard to less declared taxable value in the statutory ST-3 Returns for the period 2015-16 and that for the penalty are not tenable as there is no demand sustainable in view of the settled legal position.

5. Personal hearing in the matter was held on 12.02.2020. Shri Dhaval K. Shah, Advocate appeared on behalf of the respondents and reiterated the submissions made in the Cross Objections filed by them. No one appeared from the appellant's side.

6. I have carefully gone through the facts of the case, submissions made in the appeal memorandum, cross-objections filed by the respondent and submissions made by the respondent at the time of personal hearing and evidences available on records. Before going into the merits of the issue, it is to observe that as per facts available on records, there were already demands on the same issue against the respondent for the period prior to the period covered under the present demand which stand settled in favour of the respondent by way of Order-in-Appeal No.AHM-EXCUS-001-APP-254 & 255-17-18 dated 18.01.2018 passed by the Commissioner (Appeals). As observed by the adjudicating authority in para 13 of the impugned order, the said OIA of the appellate authority was accepted by the department on 27.03.2018. Thus, the said OIA stands unchallenged and that being so, the same would be binding on the departmental authorities. The principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities. I, therefore, do not find any legal infirmity in the impugned order passed by the adjudicating authority by following the decision of the higher appellate authority on the same issue for the past period on the principles of judicial discipline, especially when there was no material change on the facts of the case for both the period of dispute. The present demand is in fact a periodical demand and hence it has to be dealt with in the manner the original demand has been adjudicated.

7. Now, coming to the contentions on the merit of the issue raised in the appeal, I find that the issue on taxability of the services in dispute raised by the appellant department in the appeal already stand decided by the Hon'ble Supreme Court vide their judgment dated 03.10.2019 in the case of State of West Bengal Vs. Calcutta Club Ltd. [2019 (29) G.S.T.L. 545 (S.C.)]. The Hon'ble Apex Court vide their above referred order dismissed the Civil Appeal No.7772 of 2019 arising out of SLP (C) No.024977/2013 filed by the department against the decision of Hon'ble High Court of Gujarat in the case of Sports Club of Gujarat



Vs. Union of India [2013 (13) STR 645 (Guj.)] and upheld the view taken by the High Court of Gujarat in the said case.

7.1 The Hon'ble Supreme Court, in their above judgment, after elaborate discussions on the issue of levability of service tax on 'Clubs or Associations' for the period prior to 01.07.2012 and post 01.07.2012, has held that from 2005 onwards, the Finance Act of 1994 does not purport to levy Service Tax on members' clubs in the incorporated form. The Hon'ble Court has observed that the doctrine of mutuality continues to apply to incorporated and unincorporated members' clubs and the Apex Court decision in Young Men's Indian Assn. (1970) 1 SCC 462 still holds field and Article 366(29A)(f) has no application to members' clubs. They hold that company incorporated under Companies Act or Cooperative Society registered as cooperative society under State Act is "constituted" under any law for time being in force and hence, incorporated clubs or associations prior to 1st July, 2012 (when new Section 65B was introduced in Finance Act, 1994) were not included in Service Tax net [paras 72, 73, 76]. For levability of service tax for the period post 1st July, 2012, the Apex Court after examining the changes brought out in the statutory provisions with the introduction of negative list regime with effect from 01.07.2012 with the definition of 'service' given under Section 65B(44) of the Act and the Explanation 3(a) thereto and the definition of 'person' under Section 65(37) of the Act, has observed that the expression "Body of persons" used in Explanation 3(a) to Section 65B(44) of Finance Act, 1994 may subsume persons who come together for common purpose, but it does not include company or registered cooperative society; that as opposed to wide definition of "person" in Section 65B(37) of Finance Act, 1994, it has used same expression as previously used in explanation to Sections 65, 65(25a) and (25aa) ibid, which did not refer to incorporated company or cooperative society and hence, it may be assumed that legislature has continued with pre-2012 scheme of not taxing members' clubs when they are in incorporated form [para 82]. Though the conclusion was drawn by the Apex Court for members' clubs, the decision equally applies/covers the cooperative societies registered under State Act also being appellants/respondents in the bunch of appeals decided vide the above order.

7.2 In the present appeal under consideration, the appellant department's contentions on levability of service tax in the case solely rests on the provisions of Section 65B(37) and Explanation 3(a) to Section 65B(44) of the Act, which the Hon'ble Apex Court has analyzed and decided vide the above order. Since the period of demand under dispute in the present appeal being of period post 1st July 2012, the relevant extracts of the Hon'ble Apex Court's observations on levability of service tax for the period post 1st July, 2012 may be referred to which are as under:

80. It will be noticed that "club or association" was earlier defined under Sections 65(25a) and 65(25aa) to mean "any person" or "body of persons" providing service. In these definitions, the expression "body of persons" cannot possibly include persons who are incorporated entities, as such entities have been expressly excluded under



Sections 65(25a)(i) and 65(25aa)(i) as "anybody established or constituted by or under any law for the time being in force". "Body of persons", therefore, would not, within these definitions, include a body constituted under any law for the time being in force.

81. When the scheme of Service Tax changed so as to introduce a negative list for the first time post-2012, services were now taxable if they were carried out by "one person" for "another person" for consideration. "Person" is very widely defined by Section 65B(37) as including individuals as well as all associations of persons or bodies of individuals, whether incorporated or not. Explanation 3 to Section 65B(44), instead of using the expression "person" or the expression "an association of persons or bodies of individuals, whether incorporated or not", uses the expression "a body of persons" when juxtaposed with "an unincorporated association".

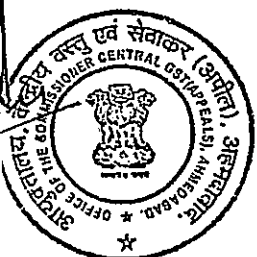
82. We have already seen how the expression "body of persons" occurring in the explanation to Section 65 and occurring in Sections 65(25a) and (25aa) does not refer to an incorporated company or an incorporated cooperative society. As the same expression has been used in Explanation 3 post-2012 [as opposed to the wide definition of "person" contained in Section 65B(37)], it may be assumed that the Legislature has continued with the pre-2012 scheme of not taxing members' clubs when they are in the incorporated form. The expression "body of persons" may subsume within it persons who come together for a common purpose, but cannot possibly include a company or a registered cooperative society. Thus, Explanation 3(a) to Section 65B(44) does not apply to members' clubs which are incorporated.

83. The expression "unincorporated associations" would include persons who join together in some common purpose or common action - see CIT, Bombay North, Kutch and Saurashtra, Ahmedabad v. Indira Balkrishna, (1960) 3 SCR 513 at pages 519-520. The expression "as the case may be" would refer to different groups of individuals either bunched together in the form of an association also, or otherwise as a group of persons who come together with some common object in mind. Whichever way it is looked at, what is important is that the expression "body of persons" cannot possibly include within it bodies corporate.

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.

85. The appeals of the Revenue are, therefore dismissed. Writ Petition (Civil) No. 321 of 2017 is allowed in terms of prayer (i) therein. Consequently, show cause notices, demand notices and other action taken to levy and collect Service Tax from incorporated members' clubs are declared to be void and of no effect in law."

7.3 It can be seen that the contentions raised by the appellant department in the present appeal no more remain valid and sustainable in the facts of the case in view of the Hon'ble Supreme Court's above observations in their Order referred above. It is a fact not in dispute that the respondent federation is an incorporated entity constituted under Section 2(9) of the Gujarat Co-operative Societies Act, 1971 and for that reason, the above judgment of the Hon'ble Supreme Court becomes squarely applicable to their case. Accordingly, the

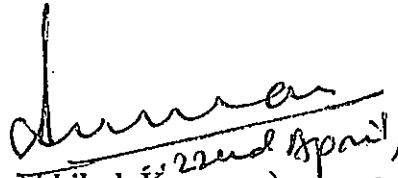


conclusion to be followed is that the services provided by the respondent to their own members cannot be held liable to service tax.

8. In view of the above discussions, it is to be held that the contentions raised by the department on the merit of the issue are not sustainable in law on facts and merits and hence deserves to be rejected.

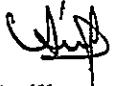
9. Accordingly, I do not find any reason to interfere with the decision taken by the adjudicating authority and therefore, I upheld the impugned order and reject the appeal filed by the appellant being devoid of merits.

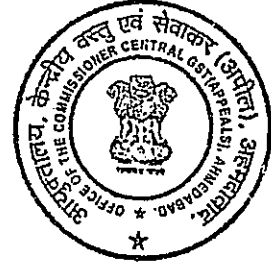
10. अपीलकर्ता द्वारा दर्ज की गई अपील को निपटारा उपरोक्त तरीके से किया जाता है।
The appeals filed by the appellant stand disposed off in above terms.


(Akhilesh Kumar)
Commissioner (Appeals)

Date: 22.04.2020.

Attested:


(Anilkumar P.)
Superintendent(Appeals),
CGST, Ahmedabad.



BY SPEED POST

To

1. The Assistant Commissioner,
CGST Division-VI,
Ahmedabad South Commissionerate.
2. M/s Gujarat Urban Co-Operative Bank Federation Ltd.,
Co-Operative Bank Bhavan,
Ashram Road, Nr. Mithakali Under Bridge,
Ahmedabad -380009.

Copy to:-

1. The Principal Chief Commissioner, Central GST, Ahmedabad Zone..
2. The Principal Commissioner, CGST, Ahmedabad South.
3. The Assistant Commissioner, CGST Division-VI, Ahmedabad South.
4. The Asstt. Commissioner, CGST (System), HQ, Ahmedabad South.
5. Guard file.
6. P.A. File

