(2015) 11 CESTAT CK 0027

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Stay Application No. 50856 Of 2014, Service Tax Appeal No. 50707 Of 2014

Kota Club Limited APPELLANT

Vs

C.C.E., Jaipur I RESPONDENT

Date of Decision : 30-11-2015

Acts Referred:

Citation : (2015) 11 CESTAT CK 0027

Hon'ble Judges : G. Raghuram, J;R. K. Singh, Technical Member

Bench : Division Bench

Advocate : Narendra Singhvi, Amresh Jain

Final Decision : Allowed

Judgement

1. Stay application alonqwlth 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 ofS ports 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 had no objection if the appeal 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 Id. 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.