Indian Medical Association, Kerala State Branch v. Union of India & Ors.

Challenge to constitutional validity of Sections 2(17)(e) and 7(1)(aa) of the CGST Act, 2017 (as amended by Finance Act, 2021) relating to taxation of services by clubs/associations to members. Issue of taxability under GST and validity of retrospective a

Date of Order: April 11, 2025
Case Law No: GIB-KERHC-2025-37
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts:
The petitioner association challenged GST liability on services rendered to its members under various welfare schemes.
It relied on the doctrine of mutuality, contending that services by an association to its members are not taxable.
Amendments introduced by the Finance Act, 2021 inserted Section 7(1)(aa) deeming such transactions as taxable supplies retrospectively from 01.07.2017.
The Single Judge upheld the validity of levy but struck down the retrospective operation, leading to cross appeals by both parties.

Court Decision:
The Division Bench upheld the constitutional validity of Sections 2(17)(e) and 7(1)(aa) of the CGST/KGST Acts, holding that the legislature was competent to treat transactions between an association and its members as taxable supplies.
It held that the amendment validly removes the basis of the doctrine of mutuality for GST purposes.
However, the Court held that giving retrospective effect to the amendment from 01.07.2017 was not legally sustainable on principles of fairness.
Accordingly, retrospective operation of the amendment was set aside, while upholding its prospective applicability.

Cases Referred by Court:
- State of West Bengal v. Calcutta Club Ltd.
- Ranchi Club Ltd. v. Chief Commissioner of Central Excise & Service Tax
- Secretary, Madras Gymkhana Club Employees Union v. Management of Gymkhana Club

- Cricket Club of India Ltd. v. Bombay Labour Union
- JCTO v. Young Men's Indian Association
- State of Madras v. Gannon Dunkerley & Co.
- Union of India v. Martin Lottery Agencies Ltd.
- Jayam & Co. v. State of Tamil Nadu
- Rai Ramakrishna v. State of Bihar
- Star India Pvt. Ltd. v. CCE
- Union of India v. Exide Industries Ltd.

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