



THE CHAMBER OF TAX CONSULTANTS

3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai - 400 020
●Tel.: 2200 1787 / 2209 0423 / 2200 2455 ●E-mail: office@ctconline.org
●Website: www.ctconline.org

INDIRECT TAX STUDY CIRCLE MEETING ON 22nd January, 2020

“Analysis of Supreme Court Judgment of Calcutta Club and its Relevance and Implication under GST Regime“

Chairman : Mr. Shailesh Sheth, Advocate

Group Leader : Mr. Ishaan Patkar, Advocate

Issue 1:

“Challenging Co-operative Housing Society” is registered as a co-operative housing society under the Maharashtra Co-operative Societies Act, 1960. Society is collecting following monthly charges from each of the society members.

Serial Number	Particulars	Amount
1	Municipal Taxes / Property Taxes	500
2	Non Agricultural Tax	250
3	Lease Rent	250
4	Sinking Fund	200
5	Car parking charges	600
6	Common electricity & water charges	1,000
7	Interest on defaulted charges /Cheque Bounce charges	200
8	Maintenance charges / Contribution to repairs & maintenance charges	4,000
9	Refundable Deposits	500
Total bill amount (Per member per month)		7,500
NOTE: The charges are based on the square feet basis and therefore to some of the members it also goes beyond 7500/-.		

In addition to above, following charges are recovered from members / others:

Serial Number	Particulars	Amount
1	Transfer fees from incoming members	25,000
2	Transfer fees from outgoing members	25,000

3	Compulsory donation for new members	10,00,000
4	Non-occupancy charges	5,000
5	Contribution for festival celebrations	Actuals
6	Penalty for damaging society's assets	Variable

The society also receives rental income from M/s. VIJ Limited for allowing them to affix their Mobile Towers in society premises.

Society has appointed advocate on retainership basis on monthly retainership fees of INR 10,000/-.

In this scenario, society wants to know the following:

- a) Whether legally society is liable for the payment of GST on the amounts collected from various members as few of the society members argues that as per the recent decision of Hon'ble Supreme Court in the case of Calcutta Club Limited service tax and VAT was not leviable. Can it be applied under GST law as well?
- b) If society as a whole do not agree to apply the mutuality principle on conservative side any other benefits available to the society to reduce the GST liability?
- c) Whether society is liable for the payment of GST on the tower rent received from M/s. VIJ Limited? (Analyse in both the scenario, if they choose to apply the principle of mutuality as well as if they do not choose to apply the principle of mutuality)
- d) Whether society is liable for the payment of GST under Reverse Charge Mechanism? (Analyse in both the scenario, if they choose to apply the principle of mutuality as well as if they do not choose to apply the principle of mutuality)
- e) Whether society can apply for the refund of GST already paid by them?

Issue 2:

Good Citizen Co-operative Society intends to demolish its old building having 12 flats of 1BHK. They want to demolish this existing building and re-construct the buildings consisting of 12 flats having 3BHK. The existing members will be allotted the re-constructed flats. All the cost of re-

construction will be contributed by the existing society members in equal proportion. Kindly examine GST implications in back drop of:

- a. As if ratio of decision of SC in case of Calcutta Club applies in GST regime also;
- b. If above referred ratio does not apply in GST regime.
