

**WEST BENGAL APPELLATE AUTHORITY FOR ADVANCE RULING
AT 14, BELIAGHATA ROAD, KOLKATA-700015**

Before:

Mr. A.P.S Suri, Member

Ms. Smaraki Mahapatra, Member

In the matter of

Appeal Case No. 11 /WBAAR/Appeal/2018 dated 21.12.2018

- And -

In the matter of:

An Appeal filed under Section 100(1) of the West Bengal Goods and Services Tax Act, 2017/ the Central Goods and Services Tax Act, 2017, by the Association of Inner Wheel Clubs of India of Chetak, A124 Lake Gardens, Kolkata-700045.

Present for the Appellant: Ms. Anchal Shraff, Chartered Accountant.

Present for the Respondent: Not Applicable

Matter heard on: 28.2.2019

Date of Order: 20.03.2019

This Appeal has been filed by the Association of Inner Wheel Club of India (hereinafter referred to as "the Appellant") on 21.12.2018 against Advance Ruling No. 23/WBAAR/2018-19 dated 26.11.2018, pronounced by the West Bengal Authority for Advance Ruling in the matter of M/s The Association of Inner Wheel Club of India.

2. M/s the Association of Inner Wheel Club of India, who not registered under the GST Act, sated to be affiliated to International Inner Wheel and the administrative body for all Inner Wheel Club spread in 27 Inner Wheel Districts all over India (two of which fall within West Bengal) sought a Ruling on whether the activities that are undertaken by them may be termed as "business" and "supply of services" as defined under the West Bengal Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the GST Act")

3. The Advance Ruling Authority ruled that:

"The Applicant's activities involve the supply of services classifiable under SAC Heading 99959 against consideration received in the form of subscription and membership fees. Services classifiable under SAC Heading 99836 are also supplied.



The sale of souvenirs is to be considered as a supply of goods.

The nature of supply for miscellaneous income as recorded in the Financial Accounts is to be determined by the nature of service.”

4. The Appellant has filed an Appeal against the above Advance Ruling with the prayer to set aside/modify the impugned Advance Ruling passed by the Authority for Advance Ruling or pass any such further or other orders as may be deemed fit and proper in the facts and circumstances of the case on the following grounds:
- A. The Ld. Authority has failed to appreciate that a privilege to be able to access various programmes of the club including those in the UN does not provide the members with any personal facility or benefit. The privilege only entitles them to attend programmes of the club only for the furtherance of the objectives of the Organisation and not for any personal benefit. The order of the Ld. Authority also recognises and accepts the fact that members attends conventions/meetings for the furtherance of the objectives of the Organisation and the annual membership subscription facilitates the member to further the objectives of the Organisation and be associated with other similar organisations, both nationally and globally, arranged for by the Organisation.
 - B. It is an undisputed fact that activities of the club are restricted to social welfare activities and does not grant any personal benefit or facilities to the members.
 - C. For that entitlement to attend conventions/meetings for the furtherance of the objectives of the Organisation cannot be said to be providing any personal facility or benefit to the members of the club.
 - D. For that the annual membership subscription facilitating the members to further the objectives of the Organisation and be associated with other similar organisations, both nationally and globally, arranged for by the Organisation cannot be said to be facilities/benefits to the members only on the ground that such access is not available to the non-members of the Organisation.
 - E. The Appellant further submitted that it is incorrect to state that non-members cannot contribute to the furtherance of the objectives of the organisation. The existence of the club is for the benefit of society and therefore charter of the organisation does not restrict non-members from participating in activities of the organisation for furtherance of its objectives. Further, there is no clause in the constitution or by laws of the association to prevent the non-members to contribute to the cause of the club in achieving its goals.
 - F. The subscription/membership fees collected from the members are utilised entirely for funding charitable work and towards administrative expenses incurred in the furtherance of the objectives of the organisation.
 - G. Any benefit, if at all, to any member in the form of a platform for social mixing, networking, promotion of friendship etc is not the objective of the organisation and



subscription is not charged in lieu of providing any such benefit and therefore it cannot be said to be consideration for providing such benefit, if at all.

- H. Awards are given for outstanding service to an individual member and such subscription paid by the members had no bearing on receipt of such awards, if any.
- I. For souvenirs are not sold but are only distributed free of the cost to the members or non-members.
- J. The Appellant further submitted that activity of the club does not fall within the scope of supply in terms of section 7 of the Central Goods and Services Tax Act, 2017 and West Bengal Goods and Services Tax act, 2017.
- K. None of the activities of the appellant satisfies any of the terms "sale", "transfer", "barter", exchange", "licence", "rental", "lease" or "disposal";
- L. None of the activities of the appellant satisfies the term "business";
- M. The club does not have property, assets or any facilities whatsoever to enable the members to enjoy the facilities or derive any benefit out of membership of the club;
- N. The club is not formed to provide any supply of goods or services to its members qua the fees received from them;
- O. It was also submitted that it was held by the Hon'ble Supreme Court in the case of Commissioner of Sales Tax v. Sai Publication Fund [2002] 126 STC 288 (SC), that the activity of publishing and selling literature, books and other literature is incidental or ancillary to the main activity of spreading message of Saint Saibaba and not to any business. If the main activity was not a business, then any transaction incidental or subsidiary to it would not amount to a business unless the main intention was to carry on the business.
- P. For that Maharashtra Authority for Advance Ruling in the case of Lions Club of Poona Kothrud vide order no. GST-ARA-33/2018-19/B-100Mumbai, dated. 28/08/2018 had held that "the club is not formed to provide any supply of goods or services to its members qua the fees received from them. There being no supply qua the fees received, there arises no occasion for us to visit the definition of 'Supply' under GST Act. The applicant club as per the facts put up before us does not render any 'Supply' for the purpose of the GST Act."

5. During the course of the hearing the Appellant reiterated the points as stated in Grounds in Appeal and the Appellate Authority for Advance Ruling has requested the Appellant to submit the audited balance sheet of the club.

6. The applicant submitted two balance sheets one for the period as on 30th June, 2017 and another for the period as on 30th June, 2018, along with and one book on constitution and bye-laws of the club.

7. The matter is examined and written and oral submissions made before us are considered.



8. The Balance Sheet as submitted by the Applicant relates to "Inner Wheel District-329 Kolkata" having address of 20, Park Side Road, Kolkata-700020 whereas the Applicant's address is "Chetak, A124 lake Gardens, Kolkata-700045". No Trial Balance of the Applicant has been submitted. From the said Balance Sheet of Kolkata Chapter it appears that the applicant's 'Income' mainly comes from:

- (i) Contribution from club for District Events
- (ii) Registration of Events.
- (iii) District directory advertisement
- (iv) District Directory Sale
- (v) Bank Interest
- (vi) Capitation-Received from Club: Association & District Fees
- (vii) New Member Capitation
- (viii) Relief Fund for Cyclone (in Balance Sheet as on 30.06.2018)

The expenses shown in the Balance Sheet are generally in the form of:

- (i) District Rally & Fellowship Events Expenses
- (ii) District Meeting Expenses
- (iii) Hall Booking for District Events
- (iv) Capitation Remittance to Association
- (v) Chairman News letter
- (vi) District Assembly Expenses
- (vii) District Directory Printing
- (viii) East Zone Meet Hall Booking & Event Expenses.
- (ix) Printing & Stationary
- (x) Relief Fund for Cyclone (in Balance Sheet as on 30.06.2018)

8. Section 7(1) of the GST Act defines the scope of supply as below:

".....the expression "supply" includes—

- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
- (b) import of services for a consideration whether or not in the course or furtherance of business;
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration; and
- (d) the activities to be treated as a supply of goods or supply of services as referred to in Schedule II."

Under sub-clause (a) of clause (17) of section 2 of the GST Act, "business" includes— "any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit", further under sub-clause (b) "business" includes— "any activity or transaction in connection with or



incidental or ancillary to sub-clause (a)” and under sub-clause (e) ‘business’ also includes- “provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members”.

As per item 2(r) under ‘Definitions’ appended to the Notification No. 1136-F.T. dated 28.06.2017 under the WBGST Act, 2017 and corresponding Notification No. 12/2017(rate) under the CGST Act, 2017, “charitable activities” means activities relating to –

(i) public health by way of , -

(A) care or counseling of

- (I) terminally ill persons or persons with severe physical or mental disability;
- (II) persons afflicted with HIV or AIDS;
- (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) advancement of religion , spirituality or yoga;

(iii) advancement of educational programmes or skill development relating to,-

- (A) abandoned, orphaned or homeless children;
- (B) physically or mentally abused and traumatized persons;
- (C) prisoners; or
- (D) persons over the age of 65 years residing in a rural area;

(iv) preservation of environment including watershed, forests and wildlife;

9. The Appellant did not categorically state the details of charitable work undertaken by them and whether those activity/activities comes under the “charitable activities” as defined above.

10. The Balance sheet has no indication of expenses made by them towards social work except some amount of expense towards ‘Relief Fund for Cyclone’ in the year ending on 30th June, 2018. But from ‘income’ side it appears that much amount was raised by the club for that very purpose. Hence, the club has no regular social activity and also has no segregated fund for that purpose though the Appellant claimed in their grounds of Appeal that the subscription/membership fees collected from the members are utilised entirely for funding charitable work and towards administrative expenses incurred in the furtherance of the objectives of the organisation.

11. Hence, the main activity of the club is charitable work as claimed by the Appellant has no firm base to stand on.



12. Inner Wheel Club membership can only be availed against payment of annual membership fees, renewable annually. Only the members are granted various facilities and/or benefits, enabling them to attend conventions/meetings for the furtherance of the objectives of the Organisation. Such facilities/benefits are not available to the non-members of the Organisation.

13. Goods and Services Tax is levied on intra-State and inter-State supply of goods and services. According to Section 7 of GST Act, the expression "supply" includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business, and includes activities specified in Schedule II to the GST Act. The definition of "business" in section 2 (17) of GST Act states that "business" includes provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members. The term 'person' as defined in section 2(84) of the GST Act includes an association of persons or a body of individuals, whether incorporated or not, in India or outside India. Further, Schedule II of GST Act enumerates activities which are to be treated as supply of goods or as supply of services. It states in para 7 that supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration shall be treated as supply of goods. A conjoint reading of the above provisions of the law implies that supply of services by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration shall be treated as supply of services.

In view of the above discussions, we find no infirmity in the ruling pronounced by the West Bengal Authority for Advance Ruling.

The appeal thus fails and stands disposed of accordingly.

Send a copy of this order to the Appellant for information.



(Smaraki Mahapatra)
Member
West Bengal Appellate Authority
for Advance Ruling

(A.P.S Suri)
Member
West Bengal Appellate Authority
for Advance Ruling