

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – III

Service Tax Appeal No. 51289 of 2019

[Arising out of Order-in-Appeal No. 26(SM) ST/JPR/2019 dated 29.01.2019 passed by the Commissioner of Central Excise & Central Goods and Service Tax (Appeals), Jaipur]

M/s. Rajput Sabha Bhawan

C-22 A & B, Bhagwan Das Road,
C-Schem, Jaipur

...Appellant

VERSUS

**Commissioner of Central Excise and Customs,
Central Goods and Service Tax, Jaipur I**

NCR Building, Statue Circle,
C-Scheme, Jaipur - 302005

...Respondent

APPEARANCE:

Shri Darsh Pareek and Shri Mudit Hudilwal, Advocates for the Appellant

Shri Mahboobur Rehman, Authorized Representative for the Respondent

CORAM:

HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)

HON'BLE MR. RAJEEV TANDON, MEMBER (TECHNICAL)

DATE OF HEARING: 12.11.2025
DATE OF DECISION: **06.01.2026**

FINAL ORDER NO. 50054/2026

RAJEEV TANDON

The appellant Rajput Sabha Bhawan, is a society registered under the Rajasthan Co-operative Registration Act, 1958 in the name and style "Shri Rajput Sabha, Jaipur" and functions under its constitution and byelaws framed for the purpose of philanthropy and charity for general public and members of the Rajput Community. The appellant is also registered under Section 12AA of

the Income Tax Act, 1961 as a charitable institution and enjoys exemption from tax as recognized there under. It is their contention that the primary objective of the appellant is to impart education and promote physical, mental and intellectual development of its community members, develop Rajputana culture of bravery, devotion to nation and also to provide financial support to intelligent students from poor families and helpless or widow ladies. The appellant society runs educational classes on a two-tier system wherein poor and meritorious students from the community are exempted from payment of fees while other students pay moderate charges to meet institutional expenses and charitable purposes undertaken by the Society.

2. The appellants were issued two show cause notices dated 16.01.2017 and 10.04.2017 for the period April 2011 to March 2015 and April 2015 to September 2016 respectively, alleging non-payment of service tax under the categories of commercial training or coaching services, renting of immovable property services and short time accommodation services demanding a total Service Tax amount of Rs.3,23,41,057/-. Extended period of limitation in terms of Section 73(1) of the Finance Act, 1994 has also been invoked in the matter.

3. It is the contention of the appellant that they were under the bonafide belief, based on advice of statutory auditors that being a charitable institution and registered under Section 12AA of the Income Tax Act, they were exempted from payment of service tax by virtue of Notification No.25/2012-ST dated 20.06.2012, whereby

entities for purpose of charity/charitable institutions were exempted.

4. Learned counsel for the appellant submits that besides the various charitable programs carried out by them to impart education, they also provide scholarships to poor and struggling students besides providing them for facilities of residential accommodation (need-based) – guest house/rest house for the poor, needy, downtrodden sections of society, backward classes and do not charge any fare/fee/rent from them, leaving it to the discretion of the said persons to pay whatever amount they wish to pay. The amount so received were booked as guest house income in the financial statements of the appellant. Likewise for social/cultural programs undertaken for community development, the appellant does not charge any amount/fare and it is the discretion of such persons availing the facilities to pay whatever they feel appropriate, as per their desire which income is booked as rental income in the financial statement of the assessee/appellant.

5. In the aforesaid backdrop, the appellant has contended that the activities undertaken by them being of a charitable nature fall under negative list of services or are exempted from levy of service tax by virtue of Mega Exemption Notification No. 25/2012 dated 20.06.2012 in terms of the following entry:

(i) Entry No. 4 – exempts from whole of service tax services provided by charitable trusts registered under Section 12AA of the Income Tax Act, 1961 by way of charitable activities. Entry No. 4 of Mega Exemption Notification No. 25/2012 dated 20th June 2012.

(ii) Entry No.5 – exempts from service tax services provided by way of (a) renting of precincts of a religious place meant for general public; or (b) conduct of any religious ceremony; &

(iii) Entry No. 18 – exempts from service tax the services by way of renting of a hotel, inn, guest house, club, campsite or other commercial places meant for residential or lodging purposes, having declared tariff of a unit of accommodation below rupees one thousand per day or equivalent.

6. In view of the aforesaid, the appellant submits that being a purely non-profitable organization involved for pure charitable purposes, the aspect of demand of service tax along with interest and invocation of penalty on them would not arise.

7. Learned Authorized Representative for the department submits that the aforestated two show cause notices adjudicated vide common order collectively for service tax demand of Rs.3,23,41,057/- were confirmed by the authorities below as the appellant rendered commercial training or coaching services [Section 65(105)(zzc)], renting of immovable services [Section 65(105)(zzzz)], accommodation/short term accommodation services [Section 65(105)(zzzzw)] and miscellaneous income/other taxable services covered under the definition of service under Section 65B(44) of the Finance Act, 1994 with effect from 01.07.2012. He reiterates the findings of the lower authority.

8. The ground for consideration that would thus arise is (a) whether the appellant has rendered service delivery of the aforestated services, and (b) and whether the said services so

provided would be non-taxable/exempted as claimed by the appellant in terms of Notification No. 25/2012-ST dated 20.06.2012.

9. We have heard both the sides at length and perused the case records.

10. We note that though the appellant was registered with the Rajasthan Government as a society and with the income tax authorities as a charitable organization, the appellant was not registered with the jurisdictional service tax authorities for rendering any of the aforesaid services, thereby lending credence to their bonafide understanding and belief of being a non-taxable entity/rendering services as not leviable to tax.

10.1 It is appellants' case, that services of commercial training and coaching centre [(Section 65(26), 65(27), 65(105) (zzc)] are inapplicable to them. We note from the facts of the case, that though the appellant was imparting skill and knowledge to members of their community, they were not into any profit making exercise and were primarily a religious/social community, engaged in promotion of welfare of their "Samaj" members. This cannot be equated with a coaching institute or establishment, where profit-making is indeed one of the key ingredient. Undisputedly, the appellant were constituted with the sole purpose of advancement of religion, spirituality and charity and so registered; services provided by them were exempted in terms of the Mega Notification No. 25/2012-ST vide Sl. No. 4. The said clause reads as under :

Notification : 25/2012-S.T. dated 20-Jun-2012

**Exemptions from Service tax – Mega Notifications –
Notification No.12/2012-S.T. superseded**

.....

1.

2.

3.

4. Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities;

10.2 Insofar as, the consideration received from members of their community, on account of religious functions, social gatherings is concerned, the appellant had strongly asserted that it was not equitable with renting of immovable property and is purely voluntary in nature. We note that the department has not produced any evidence to contradict the said proposition. Likewise it is asserted that hostel services made available for community members cannot be equated with accommodation services as held by the department, being completely voluntary and ad hoc in nature with no fixed amounts of remuneration or incorporated tariff structure.

11. We also note from the orders of the lower authority that the Revenue has considered the imparting of coaching and or training to the community members, preparing them for various competitive examinations like RAS/IAS to be covered in terms of clause (k) (iii) of para 2 (Definitions) of Notification No. 25/2012-ST which deals with education as relating to advancement of educational programs or a skill development relating to abandoned or orphaned or homeless children or physically or mentally abused or traumatized persons or persons over the age of 65 years of age, residing in rural

areas. As the noticee has not conducted any such educational program or skill development of the type described above any consideration charged/received by the appellant against educational programs would not, according to the authorities, remain outside the scope of taxability for purpose of levy of service tax. They thus concluded that educational activities undertaken by the appellant were outside the scope of charitable functions and the scope of the notification. Learned appellate authority as well as adjudicating authority have dismissed, outright the appellants contentions and have held that the coaching provided by the noticee is a pure act of providing commercial coaching open to everyone on payment of appropriate fees. To the said question, the appellant has however hurried to state that any payment received towards such coaching in turn was utilized by the charitable organization for rendering/and funding various programs to improve physical, mental and intelligence levels of the members of the society including the student community. This was particularly so for the backward members of their Rajput Community. We do not find any impropriety in the said business model of the appellant, so as to discount their primary objective of charity and for which purpose they were duly registered as a charitable organization. The department has also not contended that the revenue so received and the income earned thereby was used for non-charitable purposes or intended to enhance profits.

12. The fact of rendering of certain services like training for competitive exams like IAS/RAS to needy members cannot be considered as rendering of commercial training or coaching centre,

given the background of the organization working for purely non-commercial purpose/objectives, being in the realm of a charitable organization. The revenue has not disputed the charity objective/purpose and programmes carried out by the appellant. They have also not disputed the contention that sums received towards training for competitive exams like IAS/RAS for its community members, were utilized for various charitable activities concerned with the upliftment and skill development and advancing the quality of life of the downtrodden, poor and such other members of the community. Given the conspectus of the aforesaid matter, we are not quite enamored with the department's stance in the matter.

13. With regard to renting of immovable property service, we note that the authorities below have taken cognizance of the appellant's submission that they are providing their immovable property, for purpose of social programmes of their community only. Moreover, the appellant has been showing in their financial records, income received thereto as 'rental income' and therefore the revenue authorities have held the rendering of renting of immovable property service by the appellant. We would add here that one swallow does not make a summer. The authorities are required to consider the matter in the broad conspectus and scheme of things, and an overall view arrived at. The lower authority has also dismissed the argument that the appellant is not charging anything against providing such service and receiving rent as per discretion/desire of the service recipients, who avail of the said facility. The discretionary nature of payment as also recorded

by the authorities is a complete give away as to the true colour and texture of the transaction and certainly goes in to support the argument of charity as canvassed by the appellant. The fact that there is no fixed and organized tariff structure laid out for the purpose, certainly goes in to support the appellant's contentions. Mere showing of such income under 'advance rent received/rent receivable' as recorded in the appellant's financial statements, cannot make their earnings questionable, in the maze of plethora of factual evidence furnished. The authorities hold that such entries corroborated the department's version of rendering of the said services, as stated. We note that this is a very narrow understanding and interpretation of the subject matter, and cannot be maintained.

14. As for the miscellaneous/other taxable income, the adjudicating authority has pointed out that the appellants themselves have not questioned the taxability of the said amount and that the silence in response to the show cause notice would tantamount to tacit acceptance of the charge by the appellant and has therefore accordingly confirmed the demand as made out in the show cause notice. We do not find sufficient merit in the said assumption, as any duty/tax demand can only be sustained on the basis of hard, cogent, factual and demonstrative piece of evidence. The onus for which lies on the department. The appellant has stated before us that any such miscellaneous income, were all utilized for purpose of charity and funded their charitable activities and various other community development and welfare programmes undertaken. The Revenue has not controverted the said

submissions, as to the fact of utilization of such amounts received by the appellant. We have found no reason to find fault with the said business model of the appellant, or to dismiss the same as non-conduct of various philanthropic acts.

15. As for the invocation of extended period of limitation, we note from records that the authority below has mentioned that several letters were written to the appellant seeking information and pointed out the same in support of alleging malafide intention for evading payment of service tax. Thus, this is taken recourse, to allege suppressing of vital information from the department and hence the invocation of the extended period.

16. We also note that the revenue has not cast even an iota of doubt that the charitable activities were not carried out by the organization and that the appellant were not a profit promoting institution. The appellant has submitted that nominal fees charged from those imparted training for IAS/RAS was meant to cover maintenance and staff expenses of the institution. The fact that the appellant was duly exempted under section 12AA of the Income Tax Act, apart from their registration under the Rajasthan Co-operative Registration Act, are sufficient enough to corroborate the premise that the appellant harboured a bonafide belief of being covered within the scope of the Mega Exemption Notification No. 25/2012-ST dated 20.06.2012, exempting charitable organizations. We find that indeed the appellant is so covered and exempted from payment of Service Tax, by virtue of the said exemption notification.

17. We are unable to subscribe to the various pleas made on behalf of the revenue, merely because certain fee is charged or amount realized by the appellant as stated in foregoing paras. If no fee is charged or no amounts recovered as reported by way of advance rent etc., how can the various charitable acts be executed. Such amounts realized feed charity. Unless some other considerations are shown to be received towards profiteering or personal gains of the trustees or its members, the charitable cover cannot be blown off.

18. The aspect of charitable activities, which is not in dispute, thus cannot be lost sight of while interpreting the provisions and scope of the definition of services as rendered by the appellant in the aforesaid matter. We have gone through the bye-laws of the society that clearly establishes that all activities undertaken by the trust/the appellant herein are aimed at religious, spiritual and educational upliftment of the Rajput Samaj and the public members. The transactions of the society with its members can at best, under the circumstance, be treated as those indeed rendered between a service provider and a service recipient in the ordinary course but however exempted from payment of tax. That being the case service tax liability as would arise in the context of either imparting such educational programmes or providing hostel accommodation etc. to the community members purely for their benefit, would squarely fall within the scope of the Mega exemption Notification No.25/2012-ST and the same cannot be equated to be on par with commercial hotels or guest house services or the coaching classes.

19. Charitable and religious institutions are exempted from payment of service tax for activity undertaken, as not being commercial in nature and not driven by profit motives. The Society's objectives, constitution and its operation as evident from records, clearly show the appellant to be working for the welfare of the Samaj and not for profit. The various activities performed by way of alleged renting of immovable property/miscellaneous services/coaching for IAS/RAS, are purely incidental and in fulfillment of the charitable objectives of the appellant and to support the same. Moreover, the revenue has not been able to make out any case of duality of objectives of the organization i.e. partly charitable and partly non-charitable and establish that funds generated by the Society were not being utilized towards fulfillment of its charitable goals and purpose. No case can thus be made out for levy of tax on the appellant.

20. The Hon'ble Constitution Bench of the Apex Court in the case of **Additional Commissioner of Income Tax, Gujarat, Ahmedabad v. Surat Art Silk Cloth Manufacturers Association [(1980) AIR 387 SC]** outrightly rejected the revenue's contention, where it was argued that *"the means to achieve or carry out the object of general public utility involve the carrying on of any activity for profit, the purpose of the trust, though falling within the description of "any other object of general public utility", would not be a charitable purpose*". Viewed in the backdrop it is obvious that the charging of fees or some other money earning/profit making activity undertaken to fund and meet the charitable goals of the trust and its expenses for day to day

work/cost, cannot be held to deprive them of their charitable character. As long as the primary and dominant purpose of the appellant remains charity and charitable work, they continue to enjoy the exemption as laid out in the Mega exemption notification No.20/2012-ST dated 20.06.2012. The primary test to be applied is to ascertain the main or primary object of the trust whether is charitable or not. Moreover even under the Income Tax Act, educational activity has been otherwise also treated as for a charitable purpose in certain given circumstances. As long as the test of dominant or main purpose of the primary objective is satisfied, any act of profit would need to be intertwined or wrapped up with or implied in the purpose of the institution or the trust. Another object which in itself may not be charitable but which is merely ancillary or incidental to the primary or dominant purpose would not prevent the institution from being a valid charity, to which effect was also held by the apex court.

21. To disentitle the appellant of any benefit of exemption, as admissible to charitable institutions it is required to be demonstrated that the activity undertaken is propelled by dominant profit motive and is far removed from undertaking charitable work. Thus even if some receipt of income is generated by virtue of any act that is charitable and such income generated is wholly applied for carrying out charitable work it cannot then be reckoned to be of a non-charitable objective.

22. At this juncture, we would also like to state that the appellant has sought to also derive support of their contention and has cited the following case law :

a) Sri Chaitanya Educational Committee (SCEC) vs. Commissioner of Customs, Central Excise And Service Tax, Guntur, Commissioner of Customs, Central Excise And Service Tax, Guntur v. Sri Chaitanya Educational Committee (SCEC)

[2015 (6) TMI 627 – CESTAT BANGALORE (LB)]

to highlight inapplicability of extended period of limitation, for reasons of harboring a bonafide belief with no case of suppression made out.

In the case of Sri Chaitanya Educational Committee, it was noted in Para 44 of the order as under :

"44. The learned counsel also relied upon some decisions to submit that in view of these decisions a view was taken that 'commercial training and coaching service' provided by a charitable trust cannot be exigible to service tax, extended period could not have been invoked. In addition, the learned counsel also relied upon precedent decision to submit that when a commercial training and coaching centre provides education leading to a degree/diploma/certificate recognized by law, that also would take it out from the purview of levy of service tax. Since these decisions are applicable to the case of the appellants, even if the amendment made is considered as effective from the earlier date, yet extended period cannot be invoked in such a situation since this would show that the appellants could have entertained a bona fide belief."

23. We have however gone through the facts of the said judgement and note that in the present matter there is no argument raised with reference to the dispute in the nature of a commercial training. However, a significant departure can be noted herein that despite rendering of such coaching, the appellant is eligible for benefit in law on account of they being a charitable organization. Having held the matter on merits in favour of the

appellant, the question of invocation of extended period of limitation and arguments concerned therewith remain only of limited academic interest and are rendered futile for a meaningless discussion under the circumstances. In any case it is evident that there exist numerous reasons to harbor a bonafide belief in the matter as indicated by the appellant. We are of the view that in view of categorical inclusion of charitable organization in the exemption notification No.25/2012-ST dated 20.06.2012, the Revenue has lost even the fig leaf of argument of suppression as made out in the matter.

24. We note that the fact of the appellant, being registered as a charitable institution under the Co-operative Registration Act as well as the Income Tax Act, has great force with regard to taxability. The Tribunal's decision in the case of **Great Lakes Institute of Management Ltd. v. Commr. of S.T., Chennai [2008 (10) S.T.R. 202 (Tri.-Chennai)]** indeed comes to their aid rather quite strongly wherein it was expressly pointed out that as no individual stood to gain from profits of the establishment which were ploughed back for charitable purposes and hence the same was not held to be a commercial enterprise. Facts in the present matter are quite akin. It may also be mentioned in passing, that it is settled law that any delay in furnishing of information sought for by the Revenue from the appellant cannot be a reasonable ground for invocation of extended period.

25. Were the appellant unlikely to succeed on merits of the matter, the fact of harboring of a bonafide belief in the given circumstances certainly would spring up as an alternative in favour

of the appellant. As it is, the subject of "bonafide belief" is indeed, a complicated issue of legal interpretation and cannot be held to be settled merely on the basis of case law support and would require indepth examination of the facts and circumstances of the given case.

26. As for the judgement of the Hon'ble Delhi High Court cited by the appellant in the case of **Home Solutions Retails (India) Ltd. v. Union of India**, with regard to 'renting of immovable property service', it need to be also stressed that the Hon'ble Delhi High Court had noted in its order in the case of **T.N. Kalyana Mandapam Association vs. Union of India & Others [(2004) 5 SCC 632]** as decided by the apex court and had extracted para 35 of the said judgement in its order, which reads as under :

"35. From this analysis, it is clear that we have to understand as to whether renting of immovable property for use in the course or furtherance of business or commerce by itself is a service. There is no dispute that any service connected with the renting of such immovable property would fall within the ambit of Section 65(105)(zzzz) and would be exigible to service tax. The question is whether renting of such immovable property by itself constitutes a service and, thereby, a taxable service."

[Emphasis supplied]

27. In this context, however it again be pointed out that the question whether the appellant indeed rendered such services, was not a subject matter of examination in the strict sense of the term. Even otherwise the foremost plea of the appellant is that they were entitled to the benefit of Notification No.25/2012-ST dated 20.06.2012 holds good, and exempts them from payment of

Service Tax. Moreover, the said judgement of the Hon'ble Delhi High Court is with regard to as to what would constitute "renting of immovable property" and was concerned with the constitutionality of the subject matter. The said question does however not arise in the present matter.

28. In view of the discussions above and our findings in the matter, the impugned order is liable to be quashed and therefore set aside. The appeal filed by the appellant is allowed with consequential relief, if any, as per law.

(Pronounced in the open Court on **06.01.2026**)

(BINU TAMTA)
MEMBER (JUDICIAL)

(RAJEEV TANDON)
MEMBER (TECHNICAL)

HK