

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD  
(Special Original Jurisdiction)**

TUESDAY, THE TWENTIETH DAY OF AUGUST  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE  
AND  
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

**WRIT PETITION NO: 17309 OF 2005**

**Between:**

Secunderabad Club, rep., by its Secretary, Brig.S.Ramanand Rao (Retd.)  
S/o: late Dr.Sanjeev Rao, aged about 62 years, Secunderabad - 50026

**...PETITIONER**

**AND**

1. Union of India Rep.by Secretary, Ministry of Finance, Department of Revenue, Government of India, South Block, New Delhi.
2. Commissioner of Customs, Kendriya Shulk Bhavan, Basheerbagh, Hyderabad and others

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, direction or order especially in the nature of writ of mandamus declaring the provisions of Clause (25a) and Clause (105)(zzze) of Section 65 of the Finance Act, 1994 as inserted by Finance Act, 2005 as being ultravires the legislative powers of the Parliament, and ultravires the provisions of Constitution of India more particularly entry 92C of List 1 of Schedule 7 to the Constitution of India.

**I.A. NO: 1 OF 2005(WPMP. NO: 22035 OF 2005)**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to restrain the respondents from collecting service tax from the petitioner pursuant to the amendment brought in by Finance Act, 2005 by insertion of clause (25a)(zzze) in Clause (105 of Section 65 of the Finance Act, 1994.

**Counsel for the Petitioner: SRI ROHAN ALOOR, REPRESENTING FOR  
SRI CH. PUSHYAM KIRAN**

**Counsel for the Respondent No.1: MS. ANDE VISHALA, REPRESENTING FOR  
SRI GADI PRAVEEN KUMAR, DEPUTY SOLICITOR GENERAL OF INDIA**

**Counsel for the Respondent No.2: MS. BOKARO SAPNA REDDY, SC FOR CBIC**

**The Court made the following: ORDER**

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**

**AND**

**THE HON'BLE SRI JUSTICE J.SREENIVAS RAO**

**WRIT PETITION No.17309 of 2005**

**ORDER:** *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Rohan Aloor, learned counsel representing Mr. Ch.Pushyam Kiran, learned counsel for the petitioner.

Ms. Ande Vishala, learned counsel representing Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India for respondent No.1.

2. In this writ petition, petitioner has challenged constitutional validity of Clause (25a) and Clause (105) (zzze) of Section 65 of the Finance Act, 1994.

3. The petitioner is a club registered under the Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350 Fasli and the petitioner is an association of persons, each member contributing funds by means of entrance fee, periodical subscriptions and other

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charges, out of which expenses of the club are met. The club is a social and recreational association of the members, which is not conducted for any profit or gain.

4. It is stated at the Bar that Supreme Court in **State of West Bengal v. Calcutta Club Limited**<sup>1</sup> has held that Clause (25a) of Section 65 of the Finance Act, 1994 is unconstitutional.

5. In view of aforesaid enunciation of law by the Supreme Court in **State of West Bengal** (supra), the Writ Petition is allowed.

Miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble the Chief Justice SRI ALOK ARADHE, on this Tuesday,  
The Twentieth Day Of August Two Thousand And Twenty Four

<sup>1</sup> (2019) 19 SCC 107

//TRUE COPY//

Sd/- MOHD. ISMAIL  
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Secretary, Union of India Ministry of Finance, Department of Revenue, Government of India, South Block, New Delhi.
2. Commissioner of Customs, Kendriya Shulk Bhavan, Basheerbagh, Hyderabad and others
3. One CC to Sri Ch. Pushyam Kiran, Advocate [OPUC]
4. One CC to Ms. Bokaro Sapna Reddy, SC for CBIC[OPUC]
5. Two CD Copies

T JG- one cc to Sri. Gopal praveen Kumari, Ad Deputy solicitor General of India (OPUC)

MP  
Ks

**HIGH COURT**

**DATED:20/08/2024**



**ORDER**

**WP.No.17309 of 2005**

**ALLOWING THE WRIT PETITION  
WITHOUT COSTS**

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