

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: 23689 OF 2005

Between:

The Nizam Club, Rep. by its Honorary Secretary Mr. T. Mohan Reddy,
S/o. Late T. Papi Reddy, aged about 62 years,

...PETITIONER

AND

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

...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 I of Schedule-VII to the Constitution of India.

I.A. NO: 1 OF 2005(WPMP. NO: 30423 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) and Clause (105)(zzze) in Clause (105) of Section 65 of the Finance Act, 1994 .

**Counsel for the Petitioner: MS. ANDE VISHALA, REPRESENTING FOR
SRI S. RAVI**

**Counsel for the Respondent No.1: SRI GADI PRAVEEN KUMAR,
DEPUTY SOLICITOR GENERAL OF INDIA**

Counsel for the Respondent No.2: SRI B. NARAYANA REDDY

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.23689 of 2005

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

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 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 Limited¹** 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

¹ (2019) 19 SCC 107

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SD/-V.KAVITHA
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. The Commissioner of Customs,, Kendriya Shulk Bhavan, Basheerbagh, Hyderabad,
3. One CC to Sri S. Ravi, Advocate [OPUC]
4. One CC to Sri Gadi Praveen Kumar, Deputy Solicitor General of India[OPUC]
5. One CC to Sri B. Narayana Reddy, Advocate [OPUC]
6. Two CD Copies

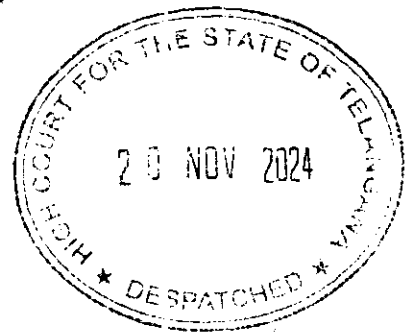
B. A. T. J.
GJP

HIGH COURT

DATED:20/08/2024

ORDER

WP.No.23689 of 2005



ALLOWING THE WRIT PETITION
WITHOUT COSTS

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