Assistant Commissioner, Central Tax, Division-IV, CGST, Pune-II Commissionerate (Appellant), against M/s Lions Club of Poona Kothrud (Respondent). The document spells the respondent 'Kothrud'; the listing spells it 'Kothurd'.

Appellate Authority for Advance Ruling — Maharashtra

ORDER NO. MAH/AAAR/SS-RJ/32/2018-19, dated 23.04.2019. The amend… Dated **23.04.2019**

Q Questions Before the Authority

- Whether the Lions Club and its members are distinct persons under the CGST Act, 2017 (issue (a) of the Appellate Authority's moot issues).
- Whether the Leadership programme the Lions Club organises exclusively for its Lion members is a 'service' (issue (b)).
- Whether the entrance fee and annual membership fee collected by the Lions Club from its members is 'consideration' (issue (c)).
- Whether the transaction between the Lions Club and its members is a 'supply' (issue (d)).
- Whether a Lions Club which collects pooled fees only for meeting, administrative and communication expenses, with no furtherance of business and no goods or services traded, needs GST registration (the question put to the Advance Ruling Authority).

F Facts

Lions Clubs and Lions Districts collect fees from members, and from clubs and cabinet members, to fund social activities, meeting expenses, administrative costs and remittances to international and multiple district offices. The respondent Lions Club argued that under the principle of mutuality these pooled fees are not taxable and that it therefore needs no GST registration. The Advance Ruling Authority accepted that position, and the department appealed.

H Ruling

Whether the Lions Club and its members are distinct persons (issue a)	**Yes. Distinct persons.**	The club is a 'person' as an association of persons with its own PAN, and each member is a 'person' as an individual under s.2(84). The mutuality case law was held inapplicable because it arose under income tax, not GST.
Whether the members-only Leadership programme is a service (issue b)	**Yes. It is a service rendered to members.**	Read with the wide definition of 'services' in s.2(102), as anything other than goods, money and securities.
Whether entrance and annual membership fees are consideration (issue c)	**Yes. They are consideration.**	Under s.2(31) the fees are paid for the benefits members receive, even though they are also used for administrative expenses.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

Whether the club-member transaction is a supply (issue d)	**Yes. It is a supply and attracts GST.**	Both conditions of s.7 are met: supply for consideration, and in the course or furtherance of business as defined in s.2(17)(e).
Whether the club needs GST registration (question put to the AAR)	**Yes. The AAR ruling is set aside and the club must register.**	The order does not give a numbered RULING section. These answers are drawn from the discussion and the final ORDER paragraph.

The Appellate Authority set aside the Advance Ruling Authority's ruling. It held that the Lions Club is liable to take GST registration for the activities it undertakes. It found that the club and its members are distinct persons, that the members-only Leadership programme is a service, that the membership fees are consideration, and that the arrangement is a supply made in the course or furtherance of business.

R Reasoning

The Authority read 'person' in s.2(84) to include both an association of persons and an individual, so the club and its members are separate persons. It treated the principle of mutuality as an income tax concept with no bearing on GST. It held that the members-only Leadership programme is a service under s.2(102) and that the fees are consideration under s.2(31). It found both s.7 conditions satisfied, relying on the inclusion of 'provision by club, association, society... of the facilities or benefits to its members' in s.2(17)(e). It rejected the AAR's reading of 'facilities or benefits' as limited to recreation, sports and food, and held that the club's objective is immaterial under GST.

P Provisions Relied On

- Section 2(17)(e) of the CGST Act, 2017 (business, including club provision of facilities or benefits to members)
- Section 2(31) of the CGST Act, 2017 (consideration)
- Section 2(84) of the CGST Act, 2017 (person)
- Section 2(102) of the CGST Act, 2017 (services)
- Section 7 of the CGST Act, 2017 (scope of supply)
- Section 100 of the CGST Act, 2017 and proviso to sub-section (2) (appeal and extension of time)
- Section 101 of the CGST Act, 2017 (decision of the Appellate Authority)
- Section 5 of the Limitation Act, 1963 (condonation of delay, as cited by the respondent)
- Section 65(44) of the Finance Act, 1994, with Explanation 3(a) (pre-GST definition of service, as relied on by the Authority)
- Corresponding MGST Act, 2017 provisions (stated to be the same as the CGST Act except where noted)

! For the Practitioner

A practitioner advising a members' association, club or body of individuals should note that this order treats the club and its members as distinct persons and treats membership fees as consideration for member benefits, so GST applies even where the fees are pooled for expenses. The order allowed a 10-day delay in filing the appeal and set aside the AAR ruling, but it does not deal with the specific valuation, exemption or rate for such receipts. It is an appellate ruling, and a West Bengal AAR decision on Inner Wheel Clubs was cited in the respondent's submission without this order deciding that question.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> mh_aaar_ss-rj_32_2018-19_lcpk_23.04.2019.pdf

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