IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

T.C.A.Nos.498, 499, 500, 501 and 502 of 2011
and M.P.No.1 of 2011 in T.C.A.No.498 of 2011;
M.P.Nos.2 to 2 of 2011 (4 Nos.) in T.C.A.Nos.499 to 502 of 2011

Chennai Corporate Club (P) Ltd.,
3, City Centre Plaza, IV Floor,
Mount Road, Chennai-600 002. .. Appellant in all appeals

vs.

The Asst. Commissioner of Income Tax,
Company Circle I(3),
Chennai. .. Respondent in all appeals

Prayer: Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of Income Tax Appellate Tribunal, Madras "D" Bench, Chennai, dated 8.8.2011 passed in I.T.A. Nos.2080, 2076, 2077, 2078, 2079/Mds/2010.

For Appellant: Mrs.Hemamuralikrishnan
assisted by
Mr.C.Subramanian

For Respondent: Mr.Avinash Krishnan Ravi
Jr. Standing Counsel

COMMON JUDGMENT
(Delivered by the Hon'ble Chief Justice)

On 31.10.2011, the following substantial question of law was framed in all the appeals:

> *"Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in holding that the entrance fee received by the Assessee/Club amounts to revenue receipt?"*

2. The facts in all the appeals are identical. These five appeals pertain to assessment years 2001-2002 to 2005-2006.

3. Appellant is assessee. Appellant is a company registered under the Companies Act, 1956 and is engaged in club activities. It is, effectively, a private club and collects life membership fee from those who want to become its members. For the assessment year 2001-2002, it received life membership amounting to Rs.21,01,000/-; for the assessment year 2002-2003, the amount received was Rs.6,91,725/-; for the assessment year 2003-2004, the amount received was Rs.15,50,000/-; for the assessment year 2004-2005, the amount received was Rs.2,95,000/- and for the assessment year 2005-2006, the amount received was Rs.29,97,275/-. These amounts were non-refundable to the members even after termination of life period of the members.

4. It is the case of assessee that the amounts received being one time payment to get membership into the club are to be capitalised and cannot be treated as revenue or income and taxed accordingly.

5. The Assessing Officer disagreed with assessee's case and the amounts received as one time life membership fees were treated as income and taxed accordingly.

6. Assessee carried this in appeal and the Commissioner of Income Tax (Appeals) [hereinafter referred to as '*CIT (A)*'], confirmed the finding arrived at by the Assessing Officer. Aggrieved, the assessee carried the matter in appeal before the Income Tax Appellate Tribunal, which, by the order impugned, confirmed the findings of the Assessing Officer as well as the CIT (A).

7. Whether the amount received has to be capitalised or has to be treated as a revenue will depend on the nature of the business of appellant. Appellant is running a private club. It offers various services. To avail of the services upon payment of regular monthly subscription, a person has to be first admitted as a member of the club. To be admitted as a member of the club, the applicant has to pay one time entrance fee. Once the entrance fee is paid by a new member, which amount admittedly is non-refundable and non-transferable at any stage, the admitted member will be able to enjoy the facilities or activities of the club, for which a separate regular monthly subscription has to be paid as cost of participation. That monthly subscription is being treated by assessee as a revenue and the

department has no quarrel with that.

8. The Bombay High Court in ***Principal Commissioner of Income-Tax vs. Royal Western India Turf Club Limited (RWITC)***[1] following a judgment of the Bombay High Court in ***CIT v. Diners Business Services Pvt. Ltd (DBS)***[2] held that any sum paid by a member to acquire the rights of the club is a capital receipt. The SLP filed against the findings of the Bombay High Court in *RWITC* (supra), has been dismissed by an order dated 11.11.2022.

9. The Tribunal, in the case at hand, relied upon the judgments of the Patna High Court in ***CIT v. Beldih Club***[3] and ***CIT v. United Club***[4] to confirm the opinion of the Assessing Officer and the CIT(A). In the case of *United Club* (supra), assessee's case was that the income of the club is totally exempted from income tax on the principle of mutuality. Similar was the case in *Beldih Club* (supra).

1 [2023] 450 ITR 707 (Bom)
2 [2003] 263 ITR 1 (Bom)
3 [1986] 161 ITR 861 (Patna)
4 [1986] 161 ITR 853 (Patna)

10. Per contra, the case of assessee before us is that assessee is not exempted from income tax, but the one time non-transferable and non-refundable sum paid by a member to acquire the rights of the club is a capital receipt. We would be guided by the findings of the Bombay High Court in *RWITC* (supra), which was rendered by one of us [*Chief Justice*], following the judgment in *DBS* (supra), and the same has also been upheld by the Apex Court, as noted earlier.

11. In the circumstances, we answer the substantial question of law framed in the negative. The appeals are allowed. There shall be no order as to costs. Consequently, interim applications are closed.

(K.R.SHRIRAM, CJ.) (SUNDER MOHAN, J.)
03.06.2025

Index : Yes
Neutral Citation : Yes
bbr/ars

To:

1.The Income Tax Appellate Tribunal,
Chennai Bench "D",
Chennai.
2.The Commissioner of Income Tax (Appeals) – III,

Chennai.

3.The Asst. Commissioner of Income Tax,
Company Circle I(3),
Chennai.

THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN,J.

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