IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

Service Tax Appeal No. 41598/2015

(Arising out of Order in Appeal No. 93/2015 dated 22.4.2015 passed by the Commissioner of Customs, Central Excise and Service Tax (Appeals – I), Coimbatore)

Naresh Gopaldas Lund and Eight Others **Appellant**
109, West Periayaswamy Road
'Shresht', 1st Floor, R.S. Puram
Coimbatore – 641 002.

Vs.

Commissioner of GST & Central Excise **Respondent**
6/7, A.T.D. Street
Race Course Road, Coimbatore – 641 018.

With

(i) Service Tax Appeal Nos.40624 & 40625/2017 (Salma Sayeed and Three Others Vs. Commissioner of GST and Central Excise, Chennai) (Arising out of Order in Appeal No. 726/2016 (STA-I) dated 30.12.2016 passed by the Commissioner of Service Tax (Appeals – I), Chennai) – Date of Hearing – 08/01/2026

(ii) Service Tax Appeal Nos.40324 & 40325/2017 (Shri Bhagwandas Gopaldas Lund and nine Others) (Arising out of Order in Appeal No. 251/2016 dated 10.11.2016 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals – I), Coimbatore) – Date of Hearing – 13/01/2026

(iii) Service Tax Appeal No.40129/2017 (Shri Bhagwandas Gopaldas Lund and nine Others) (Arising out of Order in Appeal No. 231/2016 dated 05.10.2016 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals – I), Coimbatore) – Date of Hearing – 13/01/2026

(iv) Service Tax Appeal No.40130/2017 (Shri Naresh Gopaldas Lund and Eight Others) (Arising out of Order in Appeal No. 215/2016 dated 03.10.2016 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals – I), Coimbatore) – Date of Hearing – 13/01/2026

APPEARANCE:

Smt. Radhika Chandrasekar, Advocate for the Appellants
Shri N. Satyaranayaranan, Shri M. Selvakumar & Smt. G. Kripa, Authorised Representatives for the Respondents

CORAM

Hon'ble Shri M. Ajit Kumar, Member (Technical)
Hon'ble Shri Ajayan T.V., Member (Judicial)

FINAL ORDER NOS. 40116-40122/2026

Date of Hearing: 25.09.2025
Date of Decision: 21.01.2026

Per M. Ajit Kumar,

These appeals are filed by the appellants against the orders passed by the Ld. Commissioner (Appeals).

2. The issue in these appeals being common, though they were heard separately, a common order is being passed.

2.1 The appellants herein have rented out their properties / premises for commercial purposes to various lessees as per the lease agreements and have provided taxable service under 'Renting of Immovable Property Service' as per section 65(105)(zzzz) of the Finance Act, 1994 read with Section 65(90a) of the Act and the provisions of Section 65(B)(41). The appellants have paid Service Tax under the category of 'Renting of Immovable Property Service' in their individual capacities as per their share in the properties whenever the threshold limit for exemption has been exceeded.

2.2 It is the department's contention that but for the co-owners acting together to rent the property for earning income no provision of service is possible to be provided since the share of each co-owner is not demarcated. Only when the co-owners join as an association or as a team or a body, it appears that the service provided comes into existence. Hence the co-owners would collectively constitute a single entity as an "association or body of individuals" who are collectively liable to pay service tax after pooling the entire consideration received. Hence, the department issued Show Cause Notices on the ground that the co-owners being an 'association of persons' ought to have taken a registration as a single entity separately and discharged the service tax liability jointly and should not have discharged the liability through individual registration by availing turnover based threshold exemption.

2.3 Per contra the appellant was of the view that the Undivided Share (UDS) in the land had been clearly identified and demarcated. The co-owners have not joined their resources to acquire the property nor is the land or building in the name of the association and it is not being commonly managed. They are referred to in the Lease Deed as in plural as 'Lessors' as they had entered into the deed in their individual capacity. Security deposit was also to be given to individuals separately. They are hence eligible for the turnover based exemption from Service Tax on an individual basis. The facts of individual appeals are detailed below.

3. **Appeal No. ST/41598/2015 & ST/40130/2017**

3.1 The period of dispute is from 01.04.2008 to 31.03.2013 (SCN Dated 23.10.2013) and 01.04.2013 to 31.03.2014 (SCN dated 26.03.2015) respectively. The department alleges that Shri Naresh Gopaldas Lund and eight others leased 'Srivari Gokul Towers' for commercial purposes, vide common lease deed dated 19.09.2006 (to Suzlon Energy Ltd) and License Agreement dated 01.09.2010 (to HSBC) in which all the co-owners were identified as Lessors. The property was jointly owned by the co-owners and there was no specific demarcation of the said property among the co-owners. Each of the individual Co-owners received his share of the rent, which is proportionate to his share in the property, through separate Account Payee cheques.

3.2 Upon review of documents, authorities found they had not discharged service tax liabilities under the relevant provisions of the Finance Act, 1994 and Service Tax Rules, 1994. It is alleged that despite earning taxable rental income, the appellants failed to comply

with Sections 65, 69, and 70 of the Act, resulting in Show Cause Notices issued in 2013 and 2015. Following due process, the adjudicating authority confirmed the service tax demand with interest and imposed penalties. Appeals to the Commissioner (Appeals) were rejected, leading to the current appeals.

4. **Appeal Nos. ST/40624 & 40625/2017**

4.1 The period of dispute is from October 2008 to March 2013 (SCN dated 22.04.2014) and April 2013 to March 2014 (SOD dated 19.03.2015). On investigation by officers from the Survey and Intelligence Wing of the former Service Tax Commissionerate it was found that the a portion of the property known as 'Prashant Real Gold Tower' in T. Nagar, Chennai was jointly owned by the appellants—Smt. Salma Sayeed, Shri Rehan Sayeed, Smt. Naushin Desai, and Shri Sameer Faisal Desai—and had been leased for monthly rent, vide lease deed dated 24.01.2007 by the developers to M/s. Joy Alukkas Traders (I) Pvt. Ltd. Each of the individual Co-owners were receiving his share of the rent, which is proportionate to his share in the property, through separate Account Payee cheques. The rent received was within the basic exemption limit of Rs. 10,00,000 and wherever the Appellants crossed the basic exemption, they have registered and paid service tax for the period from 2015-2016. The investigation revealed that the indivisible service classified under renting of immovable property was provided collectively by all appellants as an 'Association of Individuals.' However Service Tax had not been paid by the appellants under ‘Renting of Immovable Property’ for business or commercial purposes Following due legal process, the Learned Adjudicating Authority denied exemption under Notification No. 6/2005-ST dated 1 March 2005, as

amended by Notification No. 33/2012-ST dated 20 June 2012. and confirmed the service tax demand with interest and imposed penalties. Appeals to the Commissioner (Appeals) were rejected, leading to the current appeals.

5. **Appeal Nos. ST/40129/2017 & ST/40324 & 40325/2017**

5.1 The period of dispute is from 01.04.2013 to 31.03.2014 (SCN dated 15.04.2015) and 01.04.2013 to 31.04.2014 (SOD dated 19.03.2015). Shri Bhagwan Gopaldas Lund and nine others leased a portion of the commercial property ('Srivari Shrimat') to M/s Indus Towers Limited; M/s Pricol Technologies Ltd. and to Dr. Mohans Diabetics Specialty Centre and M/s. Spencers Retail Ltd. The appellants had done so without registering for service tax, paying service tax, or filing returns between 01.06.2010 and 31.03.2014. The investigation revealed that the indivisible service classified under renting of immovable property was provided collectively by all appellants as an 'Association of Individuals.' The co-owners disclosed their individual rental income in their respective ST-3 returns and discharged their service tax liability when the individual threshold limit was crossed. Upon investigation, authorities found they had not complied with the Finance Act, 1994 and Service Tax Rules, 1994. The rental income was verified from relevant documents, confirming taxable services were provided under 'Renting of Immovable Property Service'. As a result, Show Cause Notices were issued, and the Adjudicating Authority confirmed the demand for service tax with interest and imposed penalties. The appellants' appeals to the Commissioner (Appeals) were rejected, leading to the current appeals.

6. The learned Advocate Smt. Radhika Chandrasekar appeared for the appellants and Ld. Authorized Representatives Shri N. Satyanarayanan, Shri M. Selvakumar and Smt. G. Kripa appeared for the respondents.

6.1 The Ld. Counsel for the appellant submitted that:

A) The SCN was issued under Proviso to Section 73(1) proposing to levy Service Tax under Section 66. However, as per the amended provisions, the levy should have been under Section 66B;

B) That the share i.e. UDS of each of the co-owners is ascertainable and the consideration received by each individual co-owner is directly proportional to the share of UDS.

C) That in order to be an 'association of persons' liable to be assessed as a single entity, the co-owners should have joined their resources and acquired the property in the name of the Association which did not happen in the present case.

D) That TDS has been deducted in the hands of individuals;

E) That unless there is a provision for a deeming fiction, it cannot be deemed that the co-owners are an Association; and

F) That the co-owners were entitled to avail the benefit of Notification No.6/2005 to claim threshold exemption where their individual turnover was less than Rs. 10,00,000/-.

G) She placed reliance on the following decisions in the appellants favour:

i) **P. Dhanalakshmi Vs. Commissioner of GST & CE** 2020 (33) G.S.T.L. 225 (Tri. - Chennai)

ii) **Ramesh Kumar Chaudhary Vs. CST** (2025) 26 Centax 147 (Tri.-Chan);

iii) **Sarojben Khusalchand Vs. CST** 2017 (4) G.S.T.L. 159 (Tri.-Ahmd);

iv) **CCE Vs. Deoram Vishrambhai Patel** 2015 (40) STR 1146

H) The Show Cause Notice is time-barred as none of the ingredients that are required for invoking the extended period of 5 years are present.

She hence prayed that the appeals may be allowed.

6.2 The Ld. A.R.'s Shri N. Satyanarayanan, Shri M. Selvakumar and Smt. G. Kripa appearing for revenue, stated that:

A) That there was a single Lease Deed /License Agreement where the co-owners jointly rent the premises. The document does not demarcate the property for each co-owner and does not provide any right independently to any co-owner. Therefore, the co-owners are to be treated as a single entity.

B) Owners together have entered into the agreement to rent the property and no individual is capable of letting the property for rent or cancelling the lease;

C) The Co-owners are together an Association of Persons and therefore, income should be assessed in toto for the levy of service tax.

D) That threshold exemption cannot be allowed to the co-owners as the property is under joint ownership and the total value of services pertaining to a joint property has to be taken together to determine the service tax liability.

They prayed that the impugned orders may be set aside.

7. We have heard the parties and have perused the appeal. We find that the main issue is whether the co-owners of an undivided

commercial property given out on lease would collectively constitute an "association or body of individuals" (from 01.07.2012) or "association of persons" (from 01.07.2012). If so whether they are liable to pay service tax individually after availing the slab exemption or are collectively liable to pay service tax after pooling the entire consideration received as rent.

8. We find that the period of demand spans over the pre and post negative period. Briefly put, prior to the negative list era Sub-Clause (zzzz) of Section 65(105) of **Finance Act, 1994**, defined the taxable service of 'Renting of Immovable Property service' to mean any service provided or to be provided to any **person**, by any other **person**, in relation to renting of immovable property for use in the course of furtherance of business or commerce. Since the term 'person' was not defined in the Finance act, the definition of "person" as found in Section 3(42) of the **General Clauses Act, 1897**, was adopted for legal purposes. The said provision states that "person" shall include any company or association or body of individuals, whether incorporated or not". From 01.07.2012 when the negative list was introduced, Section 65B(44) defines "service" to mean any activity carried out by a **person** for another for consideration and includes a declared service. Further as per Section 65B(37), the term "person" was defined to include an association of persons or body of individuals, whether incorporated or not. (For ease of discussion, we refer to the term 'association of persons' only). None of these Acts, however, define what constitutes an 'association of persons'. This set the context for the demand of duty by the department from co-owners of rented commercial property as an "association of persons", resulting in the lis.

9. Joint ownership or co-ownership of property plays a critical role in defining how property is held, managed, and transferred between multiple individuals in India. It can arise in various social contexts, such as inheritance, purchase of property by more than one person say husband and wife, or as part of family arrangements or with a view to resolving disputes etc. These peculiar arrangements are generally made in the social context of maintaining peace and security of the family, entails rights, responsibilities, and individual interests of each co-owner in the property, and tax laws must be interpreted in this context. Reference in this regard is made to the decision of the Supreme Court in **Nagpur Electric Light and Power Company Limited Vs K. Shreepathirao** (AIR 1958 SC 658), where the Court declared that even a definition clause in an enactment must derive its meaning from the context or subject. In **Reserve Bank of India Vs Peerless General Finance and Investment Co. Ltd**.: [(1987) 1 SCC 424], the Hon'ble Supreme Court held as under:

> "Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual."

Again, the Constitution Bench of the Hon'ble Supreme Court in **A.V Fernandez Vs State of Kerala** [AIR 1957 SC 657], while elucidating the principle of interpretation of a taxing statue stated:

> "29. In construing fiscal statutes and in determining the liability of a subject to tax one must have regard to the strict letter of the law. If the revenue satisfies the court that the case falls strictly within the provisions of the law, the subject can be taxed. **If, on the other hand, the case of not covered within the four corners of the provisions of the taxing statue, no tax can be imposed by inference or by analogy or by trying to probe into the intentions**

<u>of the Legislature and by considering what was the substance of the matter</u>."

(emphasis added)

10. The case laws involving a discussion on the legal concept of 'association of persons', leans heavily on Constitutional Court judgments given in the case of Income Tax laws. In **Hari Khemu Gawali Vs Deputy Commissioner of Police, Bombay and another** [AIR 1956 SC 559], a Constitution Bench of the Apex Court stated:

> "It has been repeatedly said by this Court that it is not safe to pronounce on the provisions of one Act with reference to decisions dealing with other Acts which may not be in pari materia."

However, in this case the interpretation of the phrase 'association of persons' as appearing in Section 2(31)(v) in The **Income Tax Act, 1961**, is in pari materia to Section 65B(37)(vii) of the **Finance Act 1994** and states that 'person' includes an association of persons or a body of individuals, whether incorporated or not.'

11. It can safely be said that an 'association of persons' does not mean any and every combination of individuals. This issue was examined by the Hon'ble Supreme Court in its landmark three Judge Bench judgment in **Commissioner Of Income-Tax, Bombay Vs Smt. Indira Balkrishna** [1960 AIR SC 1172, 1960 SCR (3) 513]. The Court held:

> "We now come to the main question in this appeal. What constitutes an " association of persons " within the meaning of the Income-tax Act ? It has been repeatedly pointed out that the Act does not define what constitutes an association of persons, which under s. 3 of the Act is an entity or unit of assessment.
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> *****. *****. *****
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> It is enough for our purpose to refer to three decisions: **In re: B. N. Elias and Others** [[1935] I.T.R. 408]; **Commissioner of Income-tax, Bombay Vs Laxmidas**

Devidas and Another [[1937] 5 I.T.R. 484]; and **In re: Dwarakanath Harishchandra Pitale and Another** [[1937] 5, I.T.R. 716]; In In re: B. N. Elias and Others, Derbyshire, C. J., rightly pointed out that the word "associate" means, according to the Oxford dictionary, "to join in common purpose, or to join in an action." **Therefore, an association of persons must be one in which two or more persons join in a common purpose or common action, and as the words occur in a section which imposes a tax on income, the association must be one the object of which is to produce income, profits or gains.** This was the view expressed by Beaumont, C. J., in Commissioner of Income-tax, Bombay v. Laxmidas Devidas and Another at page 589 and also in Re: Dwarakanath Harishchandra Pitale and Another. In re: B. N. Elias, Costello, J., put the test in more force full language. He said "It may well be that the intention of the legislature was to hit combinations of individuals who were engaged together in some joint enterprise but did not in law constitute partnership. **When we find that there is a combination of persons formed for the promotion of a joint enterprise then I think no difficulty arises in the way of saying that these persons did constitute an association.** We think that the aforesaid decisions correctly lay down the crucial test for determining what is an association of persons within the meaning of s. 3 of the Income-tax Act, and they have been accepted and followed in a number of later decisions of different High Courts to all of which it is unnecessary to call attention. It is, however, necessary to add some words of caution here. There is no formula of universal application as to what facts, how many of them and of what nature, are necessary to come to a conclusion that there is an association of persons within the meaning of s. 3; it must depend on the particular facts and circumstances of each case as to whether the conclusion can be drawn or not."

(emphasis added)

A three Judge Bench of the Apex Court in its judgment in **G. Murugesan & Bros Vs C.I.T., Madras** [AIR 1973 SUPREME COURT 2369, 1973 SCC (TAX) 445], further amplified on its judgment in **Smt. Indira Balkrishna** (supra) and it held:

"The expression 'Association of Persons' is not a term of art.

*****. *****. *****

For forming an association of persons, the members of the association must join together for the purpose of producing an income. **An association of person can be formed**

> **only when two or more individulas voluntarily combine together for a certain purpose. Hence volition on the part of the members of the association is an essential ingredient**. It is true that even a minor can join an association of persons if his lawful guardian gives his consent. In the case of receiving dividends from shares, **where there is no question of any management,** it is difficult to draw an inference that two or more shareholders function as an association of persons from the mere fact that they jointly own one or more shares, and jointly receive the dividends declared. Those circumstances do not by themselves go to show that they acted as an association of persons."
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> (emphasis added)

12. The above judgments delineates the legal prerequisites for the formation of an association of persons. Firstly, there must be a meeting of the minds. An association can only arise when individuals voluntarily unite with a shared objective, particularly the generation of income. The formation of an association of persons depends fundamentally on the volition of the parties. There must be jointness of individuals by volition. This union must result from a conscious and consensual agreement and not from automatic or incidental circumstances. Secondly joint management of the property for purpose of rent must be involved. The existence of co-owned property alone—such as in cases of inheritance where ownership is determined by law—does not constitute an association of persons, as there is no deliberate or contractual intention to collaborate or to manage the property for profit. Hence the co-ownership and joint rental of property by heirs of a deceased, in itself, will not make them an association of persons. Similarly, when two or more persons merely purchase a property, under a common sale deed, without any agreement to have a common or joint venture with a joint management, they will not become an 'association of persons/ body of individuals'. The distinction hinges upon the element of voluntary association and collective intent among

the parties involved to manage the property for economic gain. In **Sri Ram Pasricha Vs. Jagannath** [AIR 1976 SC 2335], the Supreme Court observed :

> "Jurisprudentially it is not correct to say that a co-owner of a property is not its owner. **He owns every part of the composite property along with others** and it cannot be said that he is only a part-owner or a fractional owner of the property. The position will change only when partition takes place. .."
>
> (emphasis added)

Once a person owns property on his own strength then his act of renting out the property has to be due to his self-interest and not for the collective or common interest of the co-owners, unless there is something to suggest otherwise.

13. Revenue has asserted that, given the indivisible nature of the property, it is not feasible for each co-owner to independently provide the service of letting the property without cooperation or involvement from the other co-owners. Consequently, revenue maintains that the total rent received from the entire property should be considered when calculating the aggregate value of taxable services for Service Tax purposes. However, this argument suggests that co-ownership arises not through voluntary action or mutual agreement, but rather because of automatic and incidental circumstances. In essence, the co-owners have not intentionally formed an association for a common purpose; instead, their connection exists solely due to their respective undivided interests in the property. Analogously, while individuals may travel together in a company vehicle for work, they do not constitute an association of persons in the legal sense. Furthermore, the facts demonstrate that rent was paid separately to each co-owner, with ownership shares being distinct and identifiable, and lease payments

having accrued directly to each co-owner rather than to any collective entity or association. This indicates the absence of the essential element of volition required for the formation of an association of persons. Additionally, there is no evidence to suggest joint management of the property by the co-owners. The resulting confirmation of demand appears to reflect this dilemma faced by the Ld. A.A., as evidenced by the order portion of the OIO, which arbitrarily holds one noticee liable for the tax dues but states: "However, any of them (other noticees) is free to contribute towards payment of tax, interest and penalty more than his/her own liability on behalf of others and the same would be appreciated as well."

14. In light of these observations, it can be concluded that the individual appellants are entitled to be assessed separately for Service Tax in respect of their respective shares of rental income from the property. Our views are further strengthened by the judgment of the Hon'ble Andhra Pradesh High Court in **Bolla Tirapanna and Sons Vs CIT** [(1969) 71 ITR 209]. It was held that:

> "Merely because the parties entered into a single lease instead of seven separate agreements of lease, the status of the assessee cannot be determined as an association of persons as long as the intention of the parties, which is evidenced by the crediting of rental receipt separately, is otherwise."

15. We find that the orders of this Tribunal cited by the appellant above i.e. in the case of **P. Dhanalakshmi** (supra); **Ramesh Kumar Chaudhary** (supra); **Sarojben Khusalchand** (supra); and. **Deoram Vishrambhai Patel** (supra), have also arrived at a similar conclusion, in favour of the individual co-owners and against revenue..

16. Accordingly, we find that the appellants, as co-owners, cannot be regarded as an association of persons for the purpose of joint

assessment of their total rental income under Service Tax. Each appellant is entitled to individual assessment and may avail the applicable slab exemption on an individual basis. In view of the foregoing, the impugned orders are set aside and appeals are allowed. The appellants are entitled to consequential relief in accordance with the law. The appeals are disposed of accordingly.

(Order pronounced in open court on 21.01.2026)

Sd/-
(**AJAYAN T.V.**)
Member (Judicial)

Sd/-
(**M. AJIT KUMAR**)
Member (Technical)

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