

Housing Society to pay GST on Maintenance Charges if Members' monthly contribution exceeds Rs.7,500: The AAR, Maharashtra

Fact of the Case

The applicant, Emerald Court Co-op Housing Society Ltd. is a Co-operative Housing Society (CHS). It looks after the upkeep of the society and its members. The CHS provides services to its members in the form of facilities or benefits like security, cleaning, repairs, water, common electricity, etc. It also arranges to pay for the ancillary services like accounting, auditing, caretaker, etc.

Presently, the CHS is raising monthly bills on its members which consist of 2 parts, one is the property tax on which GST is not being charged and another is 'Maintenance charges' on which GST is being charged. The applicant has sought the advance ruling on the issue of chargeability of GST on such transactions since there could be no sale by the Co-operative Housing Societies to their own permanent members, for the doctrine of mutuality would come into play. To elaborate, CHS treated itself as the agent of the permanent members entirely and advanced the stand that no consideration passed for the services rendered by the society to its members and there was the only reimbursement of the amount by the members and therefore no GST could be levied.

Decision of the Case

The Coram ruled that the applicant is liable to pay GST on maintenance charges (by whatever name called) collected from its members if the monthly subscription or contribution charged from the members is more than Rs. 7,500/- per month.

“In view of the amended Section 7 of the CGST Act, 2017, we find that the applicant society and its members are distinct persons and the amounts received by the applicant, against maintenance charges, from its members are nothing but consideration received for supply of goods/services as a separate entity. The principles of mutuality which has been cited by the applicant to support its contention that GST is not leviable on the maintenance charges collected by them from its members, is not applicable in view of the amended Section 7 of the CGST Act. 2017 and therefore, the applicant has to pay GST on the said amounts received against maintenance charges, from its members,”.

The Maharashtra Authority of Advance Ruling (AAR) ruled that housing societies should pay Good and Service Tax (GST) on Maintenance Charges if Members' monthly contribution exceeds Rs.7,500.