

Indian Medical Association, Kerala State Branch v. Union of India and Others

Case number: W.A. No. 1659 of 2024 with W.A. No. 1487 of 2024 and W.A. No. 468 of 2025

Citation: 2025:KER:30517

Decision date: 11 April 2025

Mutuality and GST on association-member services: statutory provisions struck down; Supreme Court appeals and respondent-specific recovery protection

Court: Kerala High Court

Bench: Hon'ble Dr. Justice A. K. Jayasankaran Nambiar and Hon'ble Mr. Justice Easwaran S.

Decision stage: Final High Court constitutional merits decision. Supreme Court granted leave in the Union appeals on 8 December 2025; separately issued notice in the State petition on 15 May 2026. No final appellate merits determination is established by the reviewed orders.

01 Facts of case and issues

IMA Kerala operated member-funded social-security, disability, professional-protection, health and other welfare schemes. Doctors paid admission fees, subscriptions and event-linked contributions; separately managed and audited funds supported members and, under some schemes, their families. DGGI summons sought GST-registration and financial records for 2017–18 to 2021–22. IMA apprehended coercive recovery and invoked mutuality.

The challenge covered Sections 2(17)(e), 7(1)(aa) and its Explanation in both CGST and Kerala GST legislation. The latter deem association-member transactions to occur between separate persons, retrospectively from 1 July 2017. The Single Judge's 23 July 2024 judgment upheld the provisions but rejected retrospectivity. IMA appealed the validity ruling; Union officials and Kerala separately appealed the retrospective-relief ruling. The central issue was legislative competence to tax these mutual services through ordinary statutory deeming provisions.

In its submissions, IMA identified a 2 August 2024 notice proposing Rs. 45.32 crore in GST, plus interest and penalties, and an earlier 18 August 2023 notice proposing Rs. 2.71 crore as GST on membership fees, plus interest and penalties. These were proposed demands recorded in argument, not tax amounts adjudicated by this appellate judgment.

Pinpoint: Original physical pp. 7–13, paragraphs 1–6; pp. 40–41, paragraphs 11–12. Proposed notices: p. 21, paragraph 8(D), counsel's submissions.

02 Discussion by Hon'ble Court

The Division Bench accepted that legislatures can ordinarily remove the basis of earlier judgments through validating legislation. It distinguished that power from enlarging a taxable event beyond the Constitution's grant. Reading Articles 246A and 366(12A), it understood supply and service to require a provider and a recipient, excluding mutual self-supply or self-service.

The Court drew on Ranchi Club as approved in Calcutta Club, and treated the established meaning of mutuality as informing the constitutional GST framework. It held that an ordinary statute could not assign

02 Discussion by Hon'ble Court

a constitutionally delimited expression a wider, inconsistent meaning. It further reasoned that changing supply alone had not created a corresponding deemed service between an association and its members.

Revenue argued that GST rested on a new constitutional power and that the amendment validly removed the earlier mutuality decisions' basis. The Bench rejected that answer in this constitutional setting.

The Bench distinguished *Navnit Lal C. Javeri* and *Skill Lotto*: those decisions permitted broad definitions consistent with the relevant constitutional field, rather than contradictory enlargement of a concept already judicially defined. Fiscal-legislation latitude could not cure the lack of competence identified here.

Having invalidated the provisions, the Court said deciding retrospectivity was unnecessary. It nevertheless agreed with the Single Judge: retrospectively imposing indirect tax where recipients had not been charged and the levy had not been anticipated offended fairness, without sufficient State justification. These observations supplement the principal competence holding; the judgment is not confined to retrospective operation.

Pinpoint: Revenue submissions: original pp. 26–39, paragraphs 9–10. Court reasoning: pp. 39–50, paragraphs 11–23, especially 13–17 and 22–23; pp. 50–51, paragraph 24.

03 Judicial decision and operative relief

Sections 2(17)(e), 7(1)(aa) and the Explanation thereto of both the CGST and KGST Acts were declared unconstitutional and void, ultra vires Article 246A read with Articles 366(12A) and 265. W.A. 1659/2024 was allowed with consequential reliefs; W.A. 1487/2024 and W.A. 468/2025 were dismissed, without costs.

The operative conclusion does not quantify a refund, direct a particular repayment deadline, or separately enumerate the disposal of each show-cause notice. Do not substitute such relief for the Court's actual order. Subsequent Supreme Court proceedings and their limited interim terms are detailed below.

Pinpoint: Original p. 50, paragraph 23; p. 51, unnumbered operative conclusion following paragraph 24.

04 In favour of

IMA Kerala at High Court: substantive constitutional relief and dismissal of the revenue appeals, subject to the identified Supreme Court proceedings.

The association succeeded on the statutory-validity challenge. This was a merits determination, not a remand. Supreme Court leave and recovery protection do not themselves affirm or reverse that determination.

Pinpoint: Original paragraphs 23–24 and p. 51 conclusion; Supreme Court orders dated 25 July 2025, 8 December 2025 and 15 May 2026.

05 AKHB REVIEW POINT

AKHB analysis: This decision supports a constitutional mutuality argument, but it is unsafe to present association-member GST as finally settled nationwide. Establish the actual relationship, scheme rules,

05 AKHB REVIEW POINT

contributors, beneficiaries and fund flows. Separate member welfare from dealings with outsiders; registration as a society or a non-profit label alone does not resolve every transaction.

For existing notices, preserve period-specific objections, appeal and refund limitation, and evidence of tax collection or non-collection. Any refund requires separate examination of procedure and unjust enrichment. The Supreme Court's no-recovery wording concerns respondents in the identified proceedings; it is not an automatic recovery shield for every club or association. Recheck the appellate record before relying on the judgment or changing compliance.

Pinpoint: AKHB commentary based on original paragraphs 2–3, 11–24 and the specified Supreme Court orders. Practical steps are analysis, not additional judicial directions.

Sources and limitations

Relevant provisions

CGST Act, 2017 and Kerala GST Act, 2017: Sections 2(17)(e), 7(1)(aa) and the Explanation thereto; Sections 7(1)(a), 9 and 2(84) discussed. Finance Act, 2021: Section 108. Constitution: Articles 246A, 366(12A), 366(26A), 366(29A) and 265. Sections 74, 83 and 122 feature in the factual/submissions background, rather than the principal ratio.

Statutory note

Section 2(17)(e), concerning member facilities or benefits within business, pre-existed the 2021 insertion. Finance Act, 2021 Section 108 inserted Section 7(1)(aa) and its Explanation with deemed effect from 1 July 2017; Notification 39/2021-Central Tax dated 21 December 2021 brought Section 108 into force on 1 January 2022. These commencement and retrospective-effect dates differ. India Code's CGST text as on 11 June 2026 still prints the challenged provisions; a statutory compilation is not evidence that the judicial declaration was reversed.

Treatment note

Checked 12 October 2026. In *Union of India & Ors. v. Indian Medical Association & Anr.*, SLP(C) 18349–18350/2025, the Supreme Court issued notice on 25 July 2025 and directed no recovery of liability insofar as respondents were concerned. Registrar orders of 29 August and 14 October 2025 concerned service, counter-affidavit time and listing. On 8 December 2025, leave was granted and hearing expedited. The 10 March 2026 Registrar order identifies Civil Appeals 2526–2527/2026 and directs processing for listing. Separately, *State of Kerala v. Indian Medical Association & Ors.*, Diary 13118/2026, order dated 15 May 2026, issues notice on the SLP and delay application, grants respondent-specific no-recovery protection and tags it with the Union matters. That order does not grant leave in the State petition or condone delay. None of these six reviewed orders stays the High Court judgment or finally determines its merits. The latest judicial order verified here is 15 May 2026; this is a bounded identified-order/search check, not comprehensive live-docket or citator certification, and does not establish the absence of later orders.

Scope of source review

All 51 physical original pages, including three cause-title blocks, facts and schemes, submissions, cited authorities, paragraphs 11–24 and the operative conclusion, read in full and individually visually checked.

All seven pages of the six specified Supreme Court orders also read and visually checked. Statutory checks were targeted to the provisions and commencement noted.

Source notes

No publisher headnote appears in the retained original. Paragraphs 8–10, principally pp. 14–39, record counsel's submissions; the Court's own reasoning begins at paragraph 11. Paragraph 14 on p. 42 says incorporated when describing Article 366(29A); the constitutional text at Article 366(29A)(e) says unincorporated. This source discrepancy is not adopted as statutory wording. The original PDF carries a leading UTF-8 BOM; its 299,205 bytes are preserved unchanged. The reviewed Supreme Court captions establish the stated appeal numbers. The official High Court link could not be retrieved afresh on 12 October 2026; the preserved same-day official corpus original remains the source reviewed.

Primary source

Source description: Complete official 51-page common Kerala High Court judgment, returned under connected W.A. 1487/2024. The signed caption leads with W.A. 1659/2024. Six later Supreme Court orders are separately identified.

Official source: [Open source document](#)

Source pages: 51

Judgment author: Dr. A. K. Jayasankaran Nambiar, J.

Outcome type: final high court merits

Additional source

Supreme Court: Union of India v. Indian Medical Association, notice and recovery order, 25 July 2025

Official source: [Open source document](#)

Pinpoint: SLP(C) 18349–18350/2025; paragraphs 1–2, sole page. Full page reviewed.

Supreme Court: Union of India v. Indian Medical Association, Registrar order, 29 August 2025

Official source: [Open source document](#)

Pinpoint: SLP(C) 18349–18350/2025; sole page, service and counter-affidavit directions. Full page reviewed.

Supreme Court: Union of India v. Indian Medical Association, Registrar order, 14 October 2025

Official source: [Open source document](#)

Pinpoint: SLP(C) 18349–18350/2025; sole page, final counter-affidavit opportunity and listing. Full page reviewed.

Supreme Court: Union of India v. Indian Medical Association, leave granted, 8 December 2025

Official source: [Open source document](#)

Pinpoint: SLP(C) 18349–18350/2025; paragraphs 1–3 on physical p. 2. Both pages reviewed.

Supreme Court: Union of India v. Indian Medical Association, Registrar listing order, 10 March 2026

Official source: [Open source document](#)

Pinpoint: Civil Appeals 2526–2527/2026; sole page, caption and operative directions. Full page reviewed.

Supreme Court: State of Kerala v. Indian Medical Association, 15 May 2026

Official source: [Open source document](#)

Pinpoint: Diary 13118/2026; paragraphs 1–3, sole page. Full page reviewed.

India Code: Central Goods and Services Tax Act as on 11 June 2026

Official source: [Open source document](#)

Pinpoint: Physical p. 11, Section 2(17)(e); p. 22, Section 7(1)(aa), Explanation and insertion footnote. Targeted official web-text statutory check.

CBIC Notification 39/2021-Central Tax, 21 December 2021

Official source: [Open source document](#)

Pinpoint: Sole page: commencement of Finance Act, 2021 Sections 108, 109 and 113–122 on 1 January 2022.

Legislative Department: Constitution of India, English-Malayalam edition

Official source: [Open source document](#)

Pinpoint: Article 366(29A)(e), printed English p. 206, physical p. 464: unincorporated association. Targeted comparison with High Court paragraph 14.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official High Court judgment and the identified additional official sources. No human legal review is claimed.

General disclaimer: For professional information only; not legal advice. Read the full judgments and applicable law, verify later treatment and obtain case-specific professional advice before acting.

©AKHB & Associates. This copyright notice applies to the original AKHB research note, analysis and presentation. It does not assert ownership of the judicial orders, judgments, legislation, circulars or other third-party source material. Rights in those sources remain with their respective rights holders, as applicable.

Source checked: 12 October 2026

Hearing date: 20 March 2025 (finally heard; no separate reservation date stated)