

Non-refundable membership fee has to be apportioned and taxed during period of membership, rules Gujarat High Court

Summary – The High Court of Gujarat in a recent case of Unique Mercantile Service (P.) Ltd., (the Assessee) held that where assessee-company was providing facility cards to members on payment of one-time fee, and services were rendered partially in a year, revenue earning was to be spread over period of membership

Facts

- The assessee-company was engaged in the business of providing facility cards to members on payment of prescribed fees which was called membership fees which was a one-time fee and was non-refundable. The accounts of the assessee had been prepared on accrual basis and accordingly it had apportioned the membership fees received from the members enrolled in a particular accounting year over the entire period of their membership.
- The Assessing Officer rejected the method of accounting followed by the assessee and he considered the receipt in the year in which the cards were issued and similarly the deduction for expenditure was also allowed in the year in which they are paid irrespective of the number of years for which insurance cover was taken.
- On appeal, the Commissioner (Appeals) set aside the order of the Assessing Officer.
- On revenue's appeal, the Tribunal upheld the order of the Commissioner (Appeals).
- On appeal:

Held

- In view of the aforesaid discussion. The Tribunal has rightly considered that the method of accounting should be such from which the correct profit of each year can be deducted and that as per the method adopted by the revenue, the profit in the year in which the card is issued would be more resulting in loss/less profit in the year in which the services will be rendered by the assessee. When the services are rendered partially, revenue is to be shown proportionate to the degree of completion of the service and therefore the assessee was justified in spreading over the amount of membership fee and expenses.
- Therefore, the Tribunal is justified in setting aside the order of the Commissioner passed under section 263. Accordingly, answer the question of law raised in the present appeals in the affirmative, *i.e.*, in favour of the assessee and against the revenue. The impugned order passed by the Tribunal is hereby confirmed. Appeals are dismissed accordingly.