

**2023 (2) TMI 830 - CESTAT CHENNAI****M/S. TAMIL NADU CRICKET ASSOCIATION VERSUS COMMISSIONER OF SERVICE TAX, CHENNAI**

Service Tax Appeal No. 419 of 2012 WITH Service Tax Appeal No. 582-583 of 2012

Order No. - FINAL ORDER NOs. 40058-40060/2023

**Dated: - 20-2-2023**

**Levy of Service Tax - Support Services of Business or Commerce or not - providing the Chepauk Stadium and assisting in the conduct of the Indian Premier League (IPL) twenty over cricket matches by M/s. India Cements Ltd. - case of the Department is that the said amount is a consideration received by the appellant from the BCCI for providing the Chepauk Stadium for conduct of IPL cricket matches - HELD THAT:-** The Department has not been able to produce any evidence to show that there was an understanding between the appellant and the BCCI for providing such service for a consideration of Rs.10,00,00,000/-. Further, it is also established that the appellants had provided the Stadium to Chennai Super Kings and had received Rs.50,00,000/- per match, for which they have discharged Service Tax - The definition of 'Support Services of Business or Commerce' has already been noticed above. Unless there is a service provided and a consideration received for the service that has been provided, there cannot be a levy of Service Tax.

The decision in the case of M/S VIDARBHA CRICKET ASSOCIATION VERSUS COMMISSIONER OF CENTRAL EXCISE [\[2014 \(1\) TMI 204 - CESTAT MUMBAI \(LB\)\]](#) was relied upon by the Learned Counsel for the appellant to argue that cricket associations cannot be considered as business or commercial organizations. In the said decision, the Tribunal relied on the decision in the case of THE SECRETARY, MINISTRY OF INFORMATION & BROADCASTING VERSUS CRICKET ASSOCIATION OF BENGAL & ANOTHER [\[1995 \(2\) TMI 406 - SUPREME COURT\]](#) and it was held by the Tribunal therein that sports organizations are not business or commercial organizations; conduct of sports or sporting events and their broadcasting/telecasting is not assertion of commercial rights.

Thus, there are no hesitation to conclude that the Department has failed to establish that the appellant has rendered a service falling within the definition of 'Support Services of Business or Commerce' - appeal allowed.

**Judgment / Order**

**MRS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL) AND MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

**Shri G. Natarajan, Learned Advocate for the Appellant**

**Smt. Sridevi Taritla, Learned Additional Commissioner for the Respondent**

**ORDER**

Brief facts of the case are that the appellant viz., M/s. Tamil Nadu Cricket Association, is registered under the Service Tax Commissionerate for providing various services in the nature of Renting of Immovable Property Service, Advertising Agency and Advertising Space or Time Services. It was noticed that the appellant had received a sum of Rs. 10,00,00,000/- (Rupees Ten Crore) from M/s. Board of Control for

Cricket in India (hereinafter referred to as 'BCCI') for providing the Chepauk Stadium and assisting in the conduct of the Indian Premier League (IPL) twenty over cricket matches by M/s. India Cements Ltd.

2. There are eight franchisee teams in the IPL, which are either owned by corporate houses or individuals. Chennai Super Kings is one of the eight franchisee teams and M/s. India Cements Ltd. is the franchise owner of the Chennai Super Kings team. M/s. India Cements Ltd. held the matches involving Chennai Super Kings and the other seven teams at Chepauk Stadium, Chennai. The appellant herein had provided the stadium and support services for conduct of the IPL cricket matches at Chennai, which, according to the Department, appeared to be rendering infrastructural support service and would fall under 'Support Services of Business or Commerce'. An amount of Rs.10,00,00,000/- (Rupees Ten Crore) received by the appellant from BCCI was considered to be received for such business support service. The appellant had not paid Service Tax on such amounts received by them for the different periods.

3. Show Cause Notices dated 19.04.2010, 05.04.2011 and 10.10.2011 were issued to the appellant proposing to demand the Service tax along with interest and also for imposing penalties. After due process of law, the Original Authority vide orders impugned herein confirmed the demands along with interest and also imposed penalties. Aggrieved by the above orders, the appellant is now before the Tribunal.

4.1 Learned Counsel, Shri G. Natarajan, appeared and argued on behalf of the appellant. The details of the demand in respect of the different periods is shown in the table below:-

| Sl. No. | Appeal No.  | Period            | Service Tax demanded | Penalties imposed |
|---------|-------------|-------------------|----------------------|-------------------|
| 1.      | ST/419/2012 | 2008-09           | Rs.1,23,60,000/-     | Sections 77 & 78  |
| 2.      | ST/582/2012 | 2009-10           | Rs.82,64,020/-       | Sections 76 & 77  |
| 3.      | ST/583/2012 | 2010-11 & 2011-12 | Rs.1,14,37,450/-     | Sections 76 & 77  |

4.2 The Learned Counsel for the appellant explained that the appellant is a non-profit society which is affiliated to the BCCI, which is also a non-profit society intended to promote and control the game of cricket in India. That in its ongoing efforts to promote the game of cricket in India, the BCCI has devised the Indian Premier League whereby various franchisees are given the right to form their own IPL cricket team and would compete for the trophy; over a period of time, the IPL has gained great popularity and is also generating huge revenue for the BCCI in the form of franchisee fee, advertisement rights, broadcast rights, ticket sales, etc.

4.3 He pointed out that Clause 3 of the Memorandum of Association of BCCI mandates,

*"The income, funds and properties of the Board, however acquired, shall be utilized and applied solely for the promotion of the objects of the Board as set forth above to aid and assist financially or otherwise and to promote, encourage, advance and develop and generally to assist the game of cricket or any other sport throughout India."*

4.4 The surplus income generated by the BCCI from the conduct of the IPL are distributed by it to its various member associations (State Associations of Cricket, like the appellant herein) as the IPL subvention money. The quantum of such IPL subvention money payable to various State Associations are decided by the BCCI in its Annual General Body Meetings. Learned Counsel for the appellant would submit that, as the name subvention itself signifies, the said amounts are given by the BCCI to its member State Associations as grant / assistance, to promote the object of developing the game of cricket.

4.5 It is argued by the Learned Counsel for the appellant that "Support Services of Business or Commerce" would be attracted only when various support services as envisaged in the definition under

Section 65(104c) of the Finance Act, 1994 are provided, in connection with business activities; the appellant has not provided any infrastructural support service to the BCCI. That the appellant had not provided the Chepauk Stadium to the BCCI and it has, instead, provided the same to Chennai Super Kings for the IPL cricket matches. The appellants had received Rs.50,00,000/- (Rupees Fifty Lakhs) per match for providing the stadium and appropriate Service Tax has been discharged by the appellant on the said amount. There is no dispute with regard to the Service Tax payable for providing the Stadium to Chennai Super Kings; the receipt of Rs.10,00,00,000/- (Rupees Ten Crore) from BCCI is not at all by way of consideration for promoting the matches to be played in the Chepauk Stadium; that the said amount is only a financial support to the appellant as an affiliate of BCCI.

4.6 The Learned Counsel for the appellant argued on the ground of limitation also. It is submitted that the issue is purely an interpretational one and therefore, the invocation of the extended period of limitation alleging fraud, suppression of facts, etc., is without any basis. That the non-payment of Service Tax was only due to their bona fide view that the amount is not subject to Service Tax.

4.7.1 The Learned Counsel relied upon the decision in the cases of:-

(i) *Commissioner of Central Excise, Jaipur-I v. M/s. Rajasthan Cricket Association & anor.* [2018-TIOL-1345- CESTAT Delhi];

(ii) *M/s. KPH Dream Cricket Pvt. Ltd. v. Commr. of C.Ex. & S.T., Chandigarh-I* [2020 (34) G.S.T.L. 456 (Tri. – Chandigarh)];

(iii) *M/s. Vidarbha Cricket Association v. Commissioner of C.Ex., Nagpur* [2015 (38) S.T.R. 99 (Tri. – Mumbai)].

4.7.2 He also placed reliance on the decision of the Tribunal in the case of *M/s. Hero Motor Corp v. Commissioner of Service Tax* [2013 (32) S.T.R. 371 (Tribunal – Delhi)] which has been upheld by the Hon'ble Supreme Court as reported in 2016 (44) S.T.R. J59 (S.C.) wherein it was held that the sponsorship of Delhi Daredevils team by M/s. Hero Motor Corp would be eligible for exclusion from levy of Service Tax under sponsorship service, which excluded sponsorship or sporting events as IPL is nothing but a sporting event.

4.8 He prayed that the appeals may be allowed.

5.1 Smt. Sridevi Taritla, Learned Authorized Representative appearing for the Department, supported the findings in the impugned orders. It is submitted by her that the appellants had provided the Chepauk Stadium to the BCCI for the conduct of IPL cricket matches. She adverted to the definition provided under Section 65(104c) of the Finance Act, 1994, which defines "Support Services of Business or Commerce", which reads as under:-

*"Support services of business or commerce" means services provided in relation to business or commerce and includes evaluation of prospective customers, telemarketing, processing of purchase orders and fulfilment services, information and tracking of delivery schedules, managing distribution and logistics, customer relationship management services, accounting and processing of transactions, operational assistance for marketing, formulation for customer service and pricing policies, infrastructural support services and other transaction processing.*

5.2 It is further submitted by the Learned Authorized Representative for the Department that as per Section 65(105)(zzzq) of the Finance Act, 1994, "taxable service" is defined as any service provided or to be provided, to any person by any other person in relation to support services of business or commerce; that the activity of providing the Stadium for the conduct of IPL cricket matches falls within the above definition and therefore, the demand is legal and proper.

5.3 She prayed that the appeals may be dismissed.

6. Heard both sides.

7. The issue involved in these appeals is as to whether the appellant is liable to pay Service Tax on the sum of Rs.10,00,00,000/- received from BCCI. The case of the Department is that the said amount is a consideration received by the appellant from the BCCI for providing the Chepauk Stadium for conduct of IPL cricket matches.

8. The Department has not been able to produce any evidence to show that there was an understanding between the appellant and the BCCI for providing such service for a consideration of Rs.10,00,00,000/-. Further, it is also established that the appellants had provided the Stadium to Chennai Super Kings and had received Rs.50,00,000/- per match, for which they have discharged Service Tax.

9. The definition of 'Support Services of Business or Commerce' has already been noticed above. Unless there is a service provided and a consideration received for the service that has been provided, there cannot be a levy of Service Tax. We have to say that the Department has failed to furnish the necessary facts to establish that the Stadium was given to the BCCI for the conduct of the matches and also to establish that the sum of Rs.10,00,00,000/- was a consideration received for providing the said Stadium.

10.1 In the case of Commissioner of Central Excise, Jaipur-I v. M/s. Rajasthan Cricket Association (supra), the demand was raised in respect of the amount received from BCCI. The Original Authority had dropped the demand holding that Service Tax cannot be demanded under the category of Support Service of Business or Commerce for the activity undertaken by M/s. Rajasthan Cricket Association observing that BCCI is not a commercial concern and the arrangement between M/s. Rajasthan Cricket Association and the BCCI cannot be considered as a Support Service of Business or Commerce. This view of the Original Authority was upheld by the Tribunal in the said decision. The relevant portion of the order reads as under:-

*"7. Regarding appeal by the Revenue, we note that irrespective of the status of BCCI as a charitable organization or otherwise, we note that BCCI is sole organization incharge of game of cricket officially, in India. Managing, controlling and organizing the game of cricket, its development and other allied activities cannot be considered as business or commerce for service tax purpose. Such activities are with reference to managing a recognized sports. BCCI being the sole authority to manage the sport of cricket in India cannot be considered as involved in business or commerce with reference to activity of developing infrastructure for such sport. We do not see any infirmity in the findings recorded by the Original Authority while dropping the demand under the category of support service of business or commerce."*

10.2 In M/s. KPH Dream Cricket Pvt. Ltd. (supra), a similar issue arose for consideration. The Tribunal, after following the decision in the case of M/s. Rajasthan Cricket Association (supra), observed as under:-

*"8. We also take note of the fact that BCCI is not commercial organization and only organizing game of cricket. Therefore any service rendered to BCCI-IPL is not in the nature of support of business of BCCI. Therefore, on that ground also; no service tax is payable by the appellant-assessee as held by this Tribunal in the case of Rajasthan Cricket Association (supra) wherein this Tribunal has observed as under :-*

*7. Regarding appeal by the Revenue, we note that irrespective of the status of BCCI as a charitable organization or otherwise, we note that BCCI is sole organization incharge of game of cricket officially, in India. Managing, controlling and organizing the game of cricket, its development and other allied activities cannot be considered as business or commerce for service tax purpose. Such activities are with reference to managing a recognized sports. BCCI being the sole authority to manage the sport of cricket in India cannot be considered as involved in business or commerce with reference to activity of developing infrastructure*

*for such sport. We do not see any infirmity in the findings recorded by the Original Authority while dropping the demand under the category of support service of business or commerce.*

*9. Therefore, on central rights income, no service tax is payable by the appellant-assessee. Therefore, the demand on that ground is set aside and in Appeal No. ST/597/2012, the Commissioner has rightly dropped the demand against the appellant-assessee.”*

10.3 The decision in the case of M/s. Vidarbha Cricket Association (supra) was relied upon by the Learned Counsel for the appellant to argue that cricket associations cannot be considered as business or commercial organizations. In the said decision, the Tribunal relied on the decision in the case of Secretary, Ministry of Information and Broadcasting v. Cricket Association of Bengal [(1995) 2 SCC (161)] and it was held by the Tribunal therein that sports organizations are not business or commercial organizations; conduct of sports or sporting events and their broadcasting/telecasting is not assertion of commercial rights.

11. After appreciating the facts and following the decisions placed before us, we have no hesitation to conclude that the Department has failed to establish that the appellant has rendered a service falling within the definition of ‘Support Services of Business or Commerce’.

12. In the result, the impugned orders are set aside.

13. The appeals are allowed, with consequential reliefs, if any.

(Order pronounced in the open court on 20.02.2023)

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**Citations:** in 2023 (2) TMI 830 - CESTAT CHENNAI

1. [The Secretary, Ministry of Information & Broadcasting Versus Cricket Association of Bengal & Another - 1995 \(2\) TMI 406 - Supreme Court](#)
2. [Commissioner Versus Hero Motocorp Limited - 2015 \(7\) TMI 1163 - SC Order](#)
3. [KPH Dream Cricket Pvt. Ltd. Versus CCE & ST, Chandigarh-I \(Vice-Versa\) - 2019 \(5\) TMI 1171 - CESTAT CHANDIGARH](#)
4. [CCE, Jaipur Versus M/s Rajasthan Cricket Association And Vice-Versa - 2018 \(2\) TMI 1186 - CESTAT NEW DELHI](#)
5. [M/s VIDARBHA CRICKET ASSOCIATION Versus COMMISSIONER OF CENTRAL EXCISE - 2014 \(1\) TMI 204 - CESTAT MUMBAI \(LB\)](#)
6. [M/s HERO MOTOCORP LTD Versus COMMISSIONER OF SERVICE TAX, DELHI - 2013 \(6\) TMI 447 - CESTAT NEW DELHI](#)