

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad**

REGIONAL BENCH-COURT NO. 3

Service Tax Appeal No. 13204 of 2013- DB

[Arising out of OIA PI/112/VDR-11/2013-14 dated 23/05/2013 passed by Commissioner of Central Excise, Customs and Service Tax-VADODARA-I (Appeal)]

Pinal Rohit Shah

3/A, Kirat Park, Sindhwal Mata Road,
Pratapnagar, Vadodara
Gujarat

.....Appellant

VERSUS

C.C.E. & S.T.-Vadodara-ii

1st Floor... Room No.101
New Central Excise Building,
Vadodara, Gujarat - 390023

.....Respondent

APPEARANCE:

Shri Nandan S. Soni, Advocate for the Appellant

Shri Vijay G. Iyengar, Assistant Commissioner (AR) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. C.L. MAHAR**

Final Order No. A/ 11301 /2023

DATE OF HEARING: 23.02.2023
DATE OF DECISION: 21.06.2023

RAMESH NAIR

Brief fact of the case are that the appellant is a cricket player and engaged in playing cricket in Indian Premier League for a team owned by M/s. Indiawin Sports Private Limited, Mumbai (ISPL for short) (formerly known as Rathipriya Trading Private Ltd). Under the agreement between ISPL and the appellant Shri Pinal Shah, the appellant received remuneration for playing cricket for ISPL. As regard the remuneration received from ISPL, the case of the department is that the appellant have provided the service of brand promotion which falls under the category of Business Auxiliary Service and the same is taxable under service tax. Therefore, the demand of service tax was raised.

2. Shri Nandan S. Soni, Learned counsel appearing on behalf of the appellant submits that as per agreement for playing cricket on behalf of M/s. Indiawin Sports Private Limited (ISPL) the same is for employment of the appellant with ISPL and the appellant received remuneration for the same. He further submits that the appellant is not engaged in the brand promotion of any Company. Therefore, as per the agreement for employment of the appellant with ISPL it shall not attract service tax. This issue is settled in the following judgments:-

- Yusufkhan M Pathan vide CESTAT Order No. A/10086-10087/2023 dated 20.01.2023.
- Commissioner of Cus. &C.Ex., Goa Vs. Swapnil Asnodkar – 2018 (10) G.S.T.L. 479 (Tr. Mumbai).
- C.E, C & CGT – Delhi Vs. PiyushChawal – 2018 (7) TMI- 1009 – New Delhi
- Yogesh Takawake – 2019 (8) TMI 1693- CESTAT, Mumbai
- SouravGanguly – 2016 (7) TMI- 237- Calcutta High Court.
- Umesh Yadav – 2018 (2) TMI 135- CESTAT Mumbai
- Shri Karan Sharma – 2018 (4) TMI 111- CESTAT Allahabad

4. Shri Vijay G Iyengar, Learned Assistant Commissioner (AR) appearing for the Revenue reiterates the findings of the impugned order.

5. We have carefully considered the submission made by both the sides and perused the record. We find that the total amount of remuneration received is towards engaging the appellant by ISPL to play cricket in India Premier League matches. We find that in the identical agreements, in respect of other players engaged by different teams, in all those cases, this Tribunal relying on the High Court in the case of Sourav Ganguly Vs. UOI & other – 2016 (7) TMI 237- CALCUTTA HIGH COURT held that arrangement between the owner Company and the cricket player is of employment hence, players are not directly involved in brand promotion of a brand owner.

Therefore, the activity of the cricket player does not fall under the category of Business Auxiliary Services. AS per this settles legal position, in the present case also involving similar agreement and arrangement, the demand of under Business Auxiliary Service does not sustain.

5. As per our above observation and findings, the demand raised in the impugned orders is not sustainable. Accordingly, the impugned order is set aside and the appeal is allowed in the above terms.

(Pronounced in the open court on 21.06.2023)

**RAMESH NAIR
MEMBER (JUDICIAL)**

**C.L.MAHAR
MEMBER (TECHNICAL)**

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