

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 2

Service Tax Appeal No. 20531 of 2018

(Arising out of Order-in-Appeal No.443/2017-CT dated 17.11.2017
passed by the Commissioner of Central Tax (Appeals-II), Bangalore.)

Mr. Rajoo Bhatkal

Manish Meridien
Flat No.102, RBI Colony,
Anandnagar,
Bangalore - 560 024.

Appellant(s)

VERSUS

**The Commissioner of Central
Tax**

GST Bangalore East Commissionerate,
TTMC, BMTc Building, 4th Floor,
Domlur, Old Airport Road,
Bangalore - 560 071.

Respondent(s)

APPEARANCE:

Shri N. Anand, Advocate for the Appellant.

Shri Rajashekar B.N.N, Superintendent, Authorised Representative for
the Respondent.

CORAM:

**HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)**

Final Order No. 21871 / 2025

DATE OF HEARING: 18.11.2025

DATE OF DECISION: 18.11.2025

PER : P.A. AUGUSTIAN

This appeal is filed by the appellant Shri Rajoo Bhatkal
against Order-in-Appeal No.443/2017-CT dated 17.11.2017

passed by the Commissioner of Central Tax (Appeals-II), Bangalore.

2. Briefly the facts are that the appellant Shri Rajoo Bhatkal, cricket player was alleged to have rendered taxable services under the category of 'Business Auxiliary Services' by virtue of playing cricket for M/s. Royal Challengers Sports Pvt. Ltd. Bangalore (RCSPL) in the Indian Premier League (IPL) matches as per the player contract agreement. Department held that the player has been granted rights for the benefit of the franchisee to exploit the commercial interest and to maximise their respective promotional benefits. Since the brand 'King Fisher' belonging to United Breweries Limited (UBL) is displayed on the clothes of the player and they function as brand ambassadors/promoters of the brands belonging to the corporates and thus, promote the business and hence, liable to service tax under 'Business Auxiliary Services' and accordingly, show-cause notice dated 19.10.2012 was issued proposing to demand service tax of Rs.1,23,600/- along with penalty. The adjudicating authority confirmed the demand vide Order-in-Original dated 16.12.2013. Aggrieved by this order, appellant preferred an appeal before the Commissioner (A). The Commissioner (A) partially allowed the appeal by reducing the service tax demand from Rs.1,23,600/- to Rs.12,360/- not under the Business Auxiliary Service but under a different category viz., "Promotion of brand" under Section 65(105)(zzzzq) of the Finance Act, 1994 upto 03.06.2012 and post 01.07.2012 under Section 36B(44) of the Act. Hence, the present appeal.

3. The learned counsel submitted that the appellant is a professional international cricket player and has entered into agreement with RCSPL franchisee to play cricket in IPL cricket

matches and received 'player fee' which is paid for playing / participating in cricket matches. It is submitted that as per the contract, if the appellant is unavailable, the 'player fee' is accordingly reduced, which clearly demonstrates that the appellant is paid only for playing cricket. As alleged by the Revenue, there is no services rendered under the category of 'Business Auxiliary Services', since the contract clauses do not provide for rendering any marketing or promotion or sale of goods or services belonging to the RCSPL. It is further stated that this issue is no longer *res integra* and is settled in favour of the appellant in view of the following decisions:

- **Devraj Patil vs. CST, Bangalore: (2024) 17 Centax 202 (Tri.-Bang.)**
- **Bharat Chipli vs. CST, Bangalore: 2022-TIOL-273-CESTAT-BANG.**
- **Anil Kumble vs. CCE & ST, Bangalore-I: 2022 (63) GSTL 97 (Tri.-Bang.)**
- **Sourav Ganguly vs. CCE: 2020-TIOL-1687-CESTAT-KOL.**
- **CCE, Chennai vs. L. Balaji & Anr.: 2019-TIOL-1882-CESTAT-MAD**

3.1 He further submits that the learned Commissioner (A) in the impugned order has confirmed the demand under 'Promotion of Brand'; whereas in the show-cause notice and the adjudication order, the demand has been confirmed under 'Business Auxiliary Service', hence, the impugned order has travelled beyond the scope of show-cause notice. Reliance is placed on the following decisions:

- **CCE vs. Ballarpur Industries Ltd.: 2007 (215) ELT 489 (SC)**
- **CCE vs. Gas Authority of India Ltd.: 2008 (232) ELT 7 (SC)**
- **CC vs. Toyo Engineering India Ltd.: 2006 (201) ELT 513 (SC)**

4. The learned Authorised Representative (AR) for the Revenue reiterated the findings of the Commissioner (A).

5. Heard both sides. The issue to be decided in the present appeal is whether the appellant is liable to pay service tax under the category of 'Business Auxiliary Services' for displaying the brand names on their clothes as confirmed by the adjudicating authority and alleged in the show-cause notice or under 'Promotion of Brand' as confirmed by the learned Commissioner (A). In the case of **CCE vs. Gas Authority of India Ltd.** (supra), the Hon'ble Supreme Court observed as:

"7. As repeatedly held by this Court, show cause notice is the foundation of the Demand under Central Excise Act and if the show cause notice in the present case itself proceeds on the basis that the product in question is a by-product and not a final product, then, in that event, we need not answer the larger question of law framed hereinabove. On this short point, we are in agreement with the view expressed by the Tribunal that nowhere in the show cause notice it has been alleged by the Department that Lean Gas is a final product. Ultimately, an assessee is required to reply to the show cause notice and if the allegation proceeds on the basis that Lean Gas is a by-product, then there is no question of the assessee disputing that statement made in the show cause notice.

8.

9. we are dismissing the civil appeals filed by the Department on the factual aspect, namely, that in the show cause notice, there is no allegation that Lean Gas is the final product."

6. Following the ratio of the above decision and various decisions relied upon by the learned counsel, we find that the demand has been confirmed entirely on a different category in the impugned order i.e., 'Promotion of Brand', which is beyond the scope of show-cause notice wherein it was confirmed under 'Business Auxiliary Services' and is not unsustainable. Without going into the merits of the case, we set aside the impugned order only on the ground that it has travelled beyond the scope of show-cause notice. Appeal is allowed.

(Operative portion of the order was pronounced in Open Court
on conclusion of hearing.)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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