CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 86320 of 2017

(Arising out of Order-in-Original No. 128/Commr(RS)/LTU-M/ST/2015-16 dated 28.02.2017 passed by the Commissioner of Central Excise & Service Tax, Mumbai)

M/s Tata Motors Limited **.... Appellant**
H-5, 3rd Floor, Pimpri Works,
Pune – 411 018

Versus

Commissioner of Central Excise & Service Tax (LTU), Mumbai **.... Respondent**
29th Floor, Centre-I, World Trade Centre,
Cuffe Parade, Mumbai – 400 005

APPEARANCE:

Shri Jay Chedda, Advocate a/w Ms. Shambhavi Dewalkar, C.A. for the Appellant

Shri C.S. Pavan, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86263/2025

Date of Hearing: 08.08.2025

Date of Decision: 08.08.2025

PER: S.K. MOHANTY

Heard both sides and examined the case records.

2. Briefly stated, the facts of the case are that the appellants herein are engaged *inter alia*, in the manufacture of motor vehicles, chassis and parts thereof. In the course of provision of the business activities, the appellants during the disputed period, had entered into different agreements with M/s DNA Entertainment Networks (P) Ltd., Royal Challengers Sports (P) Ltd., KPH Dream Cricket (P) Ltd. and Wizcraft International Entertainment (P) Ltd., for provision of the services under the category of 'brand promotion'/'event management services' during the IPL 2014 and IIFA 2014. For provision of such brand promotion services, the said service providers had issued the invoices to the appellants, showing therein the service tax element, which was paid by the appellants and the said service tax amount

was also duly paid by those service providers into the Central Government account. However, while examining the books of accounts maintained by the appellants, their jurisdictional Service Tax authorities observed that the appellants did not discharge the service tax under the category of 'sponsorship services', as recipient of service under the Reverse Charge Mechanism (RCM). Accordingly, for non-payment of service tax under the sponsorship services, show-cause proceedings were initiated by the Department, which culminated into the impugned order dated 28.02.2017, wherein the learned Commissioner of Central Excise and Service Tax (LTU) has confirmed the service tax demand of Rs.2,03,94,000/- along with interest and also imposed penalty equal to the 50% of the service tax demand confirmed on the appellants. Against the impugned order dated 29.02.2017, the appellants have preferred this appeal before the Tribunal.

3. It is an admitted fact on record that on the brand promotion services provided by the above mentioned service providers, due service tax liability was discharged by them. For the said services provided by the service providers, the jurisdictional Service Tax authority at the appellants' end had alleged that the appellant should be liable for payment of service tax under the RCM. It is not the case of Revenue that the appellants had provided or received any services, other than the 'brand promotion services' and since for provision of such services, appropriate service tax liability had already been discharged by the service providers, the self-same transaction cannot be subjected to levy of service tax at the appellants' end, as it would amount to double taxation, for which, there is no mechanism being provided in the Service Tax statute. We find that the issue arising out of the present dispute is no more open for any debate, in view of the judgment of Hon'ble Karnataka High Court in the case of *Zyeta Interiors Pvt. Ltd. Vs. Vice Chairman Settlement Commission, Chennai* – 2021 (10) TMI 233 – KARNATAKA HIGH COURT. The relevant paragraph reported in the said judgement is quoted herein below: -

> *"4(b) There is also some force in the contention of the assessee that the entire amount due by way of tax having already reached the Exchequer, the assessee could not have been called to make the payment once over; petitioners had availed manpower services and in terms of Section 68(2) of the Finance Act, 1994, 50% of the tax due was paid by the assessee and the remaining 50% was remitted by the service provider; however, w.e.f. 20-6-2012 vide Notification No. 30/2012-S.T., this ratio was altered to 75:25 upto 1-4-2015 between the consumer & the service provider; further, it was changed to 100% qua the consumer w.e.f. 1-4-2015; however, inadvertently, the Assessee continued to pay 50% and the service provider paid the remaining 50%; thus, whatever is due to ceaser has reached his hands, is true; in fact, the C.B.E. & C. vide Circular No. 341/18/2004 had clarified that the reverse charge mechanism should not lead to double taxation; in other words, once the*

tax liability is discharged regardless of the persons who discharge, the assessee cannot be asked to pay the tax again."

4. We find that the order dated 18.08.2021 in the case of *Zyeta Interiors Pvt. Ltd.* (supra) was appealed against by the Revenue before the Division Bench of the Hon'ble Karnataka High Court, which was also affirmed by the Hon'ble Court, in holding as under: -

"9. As regards the issue of double taxation, we find no exception. Whatever the ratio, the tax in its entirety has reached the hands of the ex-chequer. Merely for the reason that there was no strict adherence to the ratio as envisaged during the relevant point of time for payment of tax insofar as the assessee and the service provider, the assessee cannot be made liable to pay the double tax. What is significant to note is that the discharge of entire tax amount is not disputed. Thus, the reverse charge mechanism would not lead to double taxation. We find no grounds to interfere with this finding of the learned Single Judge. Moreover, the CBEC Circular No.341/18/2004-TRU [Pt.], dated 17.12.2004 also supports the case of the assessee in this regard."

5. In view of the fact that the issue arising out of the present dispute is no more *res integra*, we are of the considered opinion that the adjudged demands confirmed by the learned adjudicating authority cannot be sustained. Therefore, the impugned order is set aside and the appeal is allowed in favour of the appellants.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha