# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

**Service Tax Cross Objection No. 91136 of 2016**
**In**
**Service Tax Appeal No. 86880 of 2016**

(Arising out of Order-in-Original No. 03/STC-IV/MRRR/16-17 dated 07.04.2016 passed by Commissioner of Service Tax-IV, Mumbai.)

**Commissioner of Service Tax-IV, Mumbai .... Appellant**
12th Floor, Lotus Info Center,
Parel Station Road, Parel (E),
Mumbai-400 012.

Versus

**Sachin Tendulkar .... Respondent**
19A, Perry Cross Road,
Bandra (W),
Mumbai-400 050.

## APPEARANCE:

Shri Dhananjay Dahiwale, Auth. Representative for the Appellant
Shri Bharat Raichandani, Advocate for the Respondent

**CORAM:**

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

**FINAL ORDER NO. A/86374/2025**

Date of Hearing: 25.10.2024
Date of Decision: 24.04.2025

***Per: S.K. MOHANTY***

Brief facts of the case are that the BCCI-IPL is a sub-committee of the Board of Control for Cricket in India (BCCI), specifically created for the purpose of holding Indian Premier League Matches. M/s. Indiawin Sports Pvt. Ltd. is a franchisee under the consortium, which engages various players to play cricket in the IPL Twenty-20 matches. The respondent herein, Shri Sachin Tendulkar, is a cricket player for such franchisee. On perusal of the Franchise Agreement entered into with the BCCI-Franchisor, the department observed that the respondent had received certain amount from the said franchisee for providing the taxable service under the category of Business Support Service (BSS), but did not pay service tax on provision of such service for the period from 2008-09 to 2011-12. Accordingly, Show Cause

Notice (SCN) dated 12.03.2013 was issued to the respondent, which was culminated into the order-in-original dated 07.04.2016 (impugned herein), wherein the learned Commissioner of Service Tax, Mumbai-IV has dropped the proposed recovery of service tax demand of Rs.1,23,81,346/- and confirmed the service tax demand of Rs.12,50,027/- along with interest on the respondent. In support of such order, learned adjudicating authority has held that the services of players are primarily used in relation to participation in matches, which cannot be termed as provision of a taxable service, under the category of BSS, in order to be subjected to levy of service tax thereon. He has held that the activities undertaken by the respondent with regard to promotion or marketing of brand/logo/mark of the team by the players would only be considered as provision of service under such category. To strengthen such stand, the learned adjudicating authority has discussed the contractual norms that even if the player does not play in any of the matches, then also he is entitled to retain an amount of 10% of the contracted amount and that retention of such amount, without performing the essential activity i.e., playing cricket, would be considered as the promotional activities carried out by the player for the franchisee, which should appropriately be classifiable under BSS.

2.1 Feeling aggrieved with the impugned order dated 07.04.2016, to the extent, it had dropped 90% of the proposed demand in the SCN, Revenue has preferred this appeal before the Tribunal. Revenue has assailed the impugned order on the ground that the respondent, by wearing the apparels supplied by franchise, had taken part in the team endorsement events and other activities referred to in the player's agreement and thus, the activities carried out by the respondent clearly appear to be for furtherance of the business of the franchisee and should accordingly, fall under the taxable entry of the BSS.

2.2 In response to the appeal filed by Revenue, the respondent has also filed the Cross-objection before the Tribunal.

3. Heard both sides and perused the case records.

4. We find that the issue arising out of the present dispute is no more *res integra*, in view of the following orders passed by the Tribunal.

i. *Shri Karn Sharma V/s. Commissioner of Central Excise & S.T., Meerut-I - Final Order No.-70455/2018 dated 10.01.2018.*

ii. *Shri Sourav Ganguly V/s. Commissioner of Service Tax, Kolkata -2020-TIOL-1687-CESTAT-KOL*

iii. *Central Excise, Customs and CGST, Delhi-III V/s. Piyush Chawla – 2019-TIOL-2092-CESTAT-DEL*

iv. *Yusufkhan M Pathan V/s. Commissioner of Central Excise and Service Tax, Vadodara-II and Irfankhan Pathan V/s. Commissioner of Central Excise and Service Tax, Vadodara-II – 2023-TIOL-257-CESTAT-AHM*

v. *Shri Anil Kumble V/s. Commissioner of Central Excise, Customs & Service Tax, Banglore-I Commissionerate – Final Order No.-20156-20157/2022 dated 31.03.2022*

vi. *Yuvraj Singh Bundhel V/s. The Commissioner of CGST, Chandigarh – Final Order No. 60479/2024 dated 14.08.2024*

vii. *M/s Knight Riders Sports Pvt. Ltd. V/s. Pr. Commissioner of Service Tax-IV, Mumbai – Final Order No. A/86006-86007/2023 dated 26.06.2023*

5. This Bench of the Tribunal in the case of Knight Riders Sports Pvt. Ltd.(supra), upon considering the orders passed by the Co-ordinate Benches, in the case of other players, has held as under:

> *"5.2 As regards the second issue, regarding payment of service tax under the taxable category of Business Support Service by the assessee-appellants in the capacity of recipient of service under Reverse Charge Mechanism (RCM), it is not in dispute that the assessee-appellants have entered into an agreement with individual foreign players and other professionals as a franchisee, wherein they have engaged those players as a professional cricketer. The aforesaid agreement also provided for the players, to wear 'team clothing', to participate in media, sponsorship and the promotional activities of the franchisee. The learned Principal Commissioner in the impugned order had concluded that such activities of the players are in the nature of support service in marketing the franchisee's trademark/ logo and thus contribute to the promotional activities. Accordingly, in terms of specific clause in the agreement indicating 10% of the total fees being payable to the player, when he does not happen to play even a single*

*match, thereby attributing this part of 10% as consideration for promotional activities confirmed the demand of service tax for an amount of Rs.47,55,082/- relying on the instructions of CBIC dated 26.07.2010, while dropping the demand on the balance 90% of fees attributing the same to sports activity of playing cricket. We find that the said issue has already been dealt with by the Co-ordinate Bench of this Tribunal, in the case of Sourav Ganguly Vs. Commissioner of Service Tax, Kolkata (Now Commissioner of Central Goods & Service Tax & Central Excise, Kolkata South), 2020 (12) TMI 534 – CESTAT Kolkata, wherein it was held that the view taken by the commissioner is not correct as the players had received the fees for the purpose of playing cricket only and even otherwise, it is a settled principle of law that if no machinery provision exists to exclude non-taxable service (playing cricket) from a composite contract, the same is not taxable since law must provide a measure or value of the rate to be applied and any vagueness in the legislative scheme makes the levy fatal. Thus, the Tribunal held in this case that the confirmation of demand could not be sustained. Considering that the ratio of the above decision squarely applies to the present case in hand, we are of the view that the confirmation of demand Rs.47,55,082/- towards fees paid to foreign players on RCM basis and Rs. 20,13,565/- to the agents of foreign players are not sustainable."*

6. In view of the foregoing discussions, we do not find any infirmity in the impugned order dated 07.04.2016 passed by the learned adjudicating authority. Therefore, appeal filed by Revenue is dismissed. Cross-objection stands disposed of.

(Order pronounced in the open court on 24.04.2025)

**(S.K. Mohanty)**
**Member (Judicial)**

**(M.M. Parthiban)**
**Member (Technical)**

*Sm*