

S. T. Appeal No. 70573 & 70278 of 2020

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD.**

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 70573 of 2020

(Arising out of order in appeal No. NOI-EXCUS-001-APP-543-20-21 dated 28.08.2020 passed by the Commissioner (Appeals), Central Good and Service Tax, Noida).

M/s Sporty Solutionz Pvt. Limited
1/E, Sector-16, Noida-201 301.

Appellant

VERSUS

**Commissioner, Central Goods
and Service Tax**
4th Floor, C-56/42, Renu Tower
Sector-62, Noida.

Respondent

AND

Service Tax Appeal No. 70278 of 2020

(Arising out of order in appeal No. NOI-EXCUS-001-81-2021 dated 18.05.2020 passed by the Commissioner (Appeals), Central Goods and Service Tax, Noida).

M/s Sporty Solutionz Pvt. Limited
1/E, Sector-16, Noida.

Appellant

VERSUS

**Commissioner, Central Goods
and Service Tax**
4th Floor, C-56/42, Renu Tower
Sector-62, Noida.

Respondent

APPEARANCE:

Shri Abhinav Kalra, Chartered Accountant for the appellants
Shri Gyanendra Kumar Tripathi, Authorised Representative for the respondent

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER Nos.70227-70228/2021

DATE OF HEARING: 06.08.2021
DATE OF DECISION: 28.09.2021

ANIL CHOUDHARY:

The issue involved in these appeals is whether the appellant is liable to pay service tax under Section 65(105)(zzzzr) under the head 'Commercial Exploitation of Rights of Sports Events' read with Section 65B (44) read with Section 66A & 66B read with Rule 6 of Place of Provisions of Service Rules. The disputes in the appeals are as follows:-

Appeal No.	Period	Demand	Show cause notice date	Order-in-appeal No. & date
ST/A No. 70278/ 2020	April, 2012 to March, 2016	66,58,181/-	16.01.2018	NOI-EXCUS-001-APP-81-20-21 dt.18.05.2020
ST/A No. 70573/ 2020	April, 2016 to June, 2017	51,46,500/-	27.03.2019	NOI-EXCUS-001-APP-543-20-21 dt.28.08.2020

2. Brief facts of the case are that the appellants had acquired 'Media / Broadcasting rights' of various sporting events from M/s Taj TV Ltd., Mauritius, for broadcasting cricket matches between Bangladesh and Zimbabwe (to be played outside India), in Bangladesh territory on payment of rights fee/license fee, and further sold/sub-licensed to other parties for broadcasting in Bangladesh only, against consideration in the name of rights/license fee. The department had alleged that the appellant was liable to pay service tax under 'Reverse Charge Mechanism' (RCM) for acquiring such rights from persons located outside India as recipient of services under the category of 'Commercial Exploitation of Rights of Sports Events' upto June 2012 falls under the definition of Services, not included in the negative list w.e.f 01.07.2012. Accordingly, a show cause notice(s) was issued to the appellant

proposing a demand of service tax amounting to Rs. 66,58,181/- which had not been paid under RCM during the period of April 2012 to March 2016, and demand for the period April 2016 to June 2017 for an amount of Rs. 51,46,500/- along with interest and penalty. The adjudicating authority had observed that the services (telecasting rights) acquired by the appellant from overseas providers would qualify as import of services, which is liable to service tax under RCM and, accordingly, the demand was confirmed along with interest and penalty.

3. Being aggrieved, the appellant preferred appeals before the Commissioner (Appeals) who vide the impugned order rejected the appeals holding that the appellant was liable to pay 100% service tax under reverse charge mechanism on the value of service paid to the overseas providers for procurement telecasting rights of sports events for the purpose of its commercial exploitation, and the Adjudicating Authority have correctly confirmed the demand with interest and penalty imposed was also upheld.

4. Being aggrieved, the appellant have filed appeals before this Tribunal.

5. Learned Counsel for the appellant(s) contended that no services were provided or consumed within the taxable territory of India. The media rights were procured for broadcasting of the sports event, held outside the taxable territory of India. In this regard the appellant referred to Section 66B of the Finance Act, 1994 and contended that in view of it the service tax would be chargeable only in

respect of services provided or agreed to be provided, within the taxable territory.

5.1 Further, he contended that Rule 6 of the Place of Provision of Services Rules 2012 has also been referred to and contended that place of provision of services related to the sports event, should be the place where the event was held, which in the instant matter happened to be the outside the taxable territory of India. In support, the counsel submitted schedule of cricket matches, wherein it is evident that these matches were held in Zimbabwe and broadcasted in Bangladesh. This fact is not disputed.

5.2 He also contended that the appellant had procured media rights from parties located outside India; that the media rights had been procured for broadcasting the sports event which had been held outside India; and the media rights had been procured for broadcasting in countries outside India. Therefore, neither the party from whom the media rights were procured was in India nor the event was held in India and also that the matches covered were broadcasted outside India. A copy of the License Agreement entered into by the appellant with M/s Taj TV Ltd. had also been submitted, and contended that as per the said agreement the term 'Territory' meant 'current political borders of Bangladesh'. Exclusive television broadcasting rights were granted to Licensee of the event / program for the Territory only. Therefore, it has been contended that in view of the terms of the agreement, the broadcasting rights had been for broadcasting within the territory of

Bangladesh only, and none of the services had ever been consumed within the taxable territory of India. Since no services had been effectively consumed within India, imposition of service tax on the value involved is outside the scope of the Finance Act, 1994 and will merely result in hardship and miscarriage of the intention of law.

6. Learned Authorised Representative appearing for the Revenue relies on the impugned order.

7. In respect to the above contention of the appellant we find that section 66B of the Finance Act, 1994 read as under:

"There shall be levied a tax (hereinafter referred to as the service tax) at the rate of fourteen per cent. on the value of all services, other than those services specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed."

Further, Rule 6 of the Place of Provision of Services Rules, 2012 reads:

"6. Place of provision of services relating to events.- *The place of provision of services provided by way of admission to, or organization of, a cultural, artistic, sporting, scientific, educational, or entertainment event, or a celebration, conference, fair, exhibition, or similar events, and of services ancillary to such admission, shall be the place where the event is actually held."*

8. Having considered the rival contentions and from a conjoint reading of the aforementioned provisions provides for charge of service tax at the specified rate on the value of any service, other than services specified in the negative list, provided or agreed to be provided in the taxable territory (India), by any person to another. Admittedly, no services have been provided in the taxable territory.

9. Further Rule 6 of the Place of Provision of Service Rules, 2012, provides and clarifies that in case of any cultural or sporting event and/or services related to such event, shall be the 'place' where the event is actually held. We find that admittedly the event was held outside India (Zimbabwe), and this service has not been received in India, rather it was meant for Bangladesh, for which territory, the telecasting rights were purchased and resold by the appellants. Only for the reason that the appellant provider or trader of telecasting right is located in India, it cannot be assumed or presumed by any stretch of imagination, that the service under dispute has been received in India.

10. In view of our findings, we allow these appeals and set aside the impugned orders. The appellants shall be entitled to consequential benefits, if any, in accordance with law.

(Pronounced on-28.09.2021).

Sd/-

(Anil Choudhary)
Member (Judicial)

Sd/-

(P. Anjani Kumar)
Member (Technical)