HIGH COURT OF TRIPURA
AGARTALA

Central Excise App. No.01 of 2023

1. Union of India, represented by the Commissioner of Central Excise, CGST, CGST Bhawan, 1 Floor, Mantribari Road, Netaji Chowmuhani, Agartala, Tripura West-799001.

2. Assistant Commissioner of Central Excise, CGST, CGST Bhawan, 1 Floor, Mantribari Road, Netaji Chowmuhani, Agartala, Tripura West-799001.

….Appellants(s)

Versus

M/S Tripura Cricket Association, Post Office. Chowmuhani, P.O.- Agartala, P.S.- West Agartala, District- West Tripura, Pin-799001.

….Respondent(s)

For the appellants(s)	:	Mr. Paramartha Datta, Advocate
For the respondent (s)	:	Mr. Nihar Dasgupta, Advocate Mr. T.K. Deb, Advocate
Date of hearing	:	01.05.2024
Date of delivery of Judgment & Order	:	31.07.2024
Whether fit for reporting	:	**Yes**

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH

JUDGMENT & ORDER

(Arindam Lodh, J.)

This is an appeal filed under Section 35G of the Central Excise Act, 1944, against the impugned final Order No. 75129/2023, dated 02.03.2023 passed by the Central Excise & Service Tax Appellate Tribunal ('CESTAT', for short), Kolkata in Appeal No.75752 of 2022.

2. Brief facts of the case are that the respondent, M/S Tripura Cricket Association is a holder of Service Tax Registration No.AABAT1839LSD001 under the category of "Club or Association Service, Rent-a-Cab Operation Service, Sponsorship Service and Work Contract Service". The respondent/TCA is affiliated to the Board for Control

of Cricket in India ('BCCI', for short) and received grant/subsidy including Service Tax from BCCI in the nature such as TV Rights subsidy, Tournament receipts, IPL subsidy, player expenses, reimbursement and subsidy for International/Domestic matches etc. During the period 2011-12 to 2013-14, the respondent had received grant or subsidy amounting to Rs.68,86,52,000/-(Rupees Sixty eight crore eighty six lakh fifty two thousand) from BCCI for the promotion of the game of cricket in Tripura, on which, Service Tax amounting to Rs.7,73,72,374/-(Rupees Seven crore seventy three lakh seventy two thousand three hundred seventy four) had been deposited to the Government Exchequer (Service Tax Head).

3. On 15.07.2015, i.e. after a little over one year from the date of depositing the Service Tax, the respondents realized that the amount was mistakenly paid and thereafter, filed a refund claim for the aforementioned amount before the Assistant Commissioner of Central Excise, Agartala. The Assistant Commissioner vide Order-in-Original dated 12.11.2015, rejected the refund claim as barred by limitation under Section 11B of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994. Being aggrieved with the said order dated 12.11.2015, the respondent filed an appeal before the Commissioner (Appeals), Customs, Central Excise & Service Tax, Guwahati, which vide Order-in-Appeal dated 08.04.2016 rejected the refund claim and upheld the Order-in-Original. On an appeal filed by the respondent before the CESTAT, Kolkata, the Tribunal vide order dated 20.07.2017, set aside the said Order-in-Appeal dated 08.04.2016 and remitted the matter back to the Commissioner (Appeals). The Commissioner (Appeals), Guwahati on fresh consideration of the case held that the instant

appeal was identical with the case of ***Vidarbha Cricket Association Vs. Commissioner of C. Ex.***, reported in ***2015 (38) S.T.R. 99 (Tri-Mumbai)*** which was pending before the Apex Court and decided to transfer the case to Call Book till attainment of the finality of the aforesaid case, following which the respondent preferred a writ petition before this Court. This Court vide order dated 26.04.2018, directed the Commissioner (Appeals) to pass proper order. The Commissioner (Appeals) passed a miscellaneous order dated 20.06.2018 transferring the case to Call Book instead of passing a *denovo* adjudication order as directed by the Tribunal vide order dated 20.07.2017. The respondent again approached the Tribunal, and vide order dated 18.09.2018, the learned Tribunal directed the respondent to agitate the matter before this Court. Finally, this Court vide order dated 22.02.2022 in Central Excise Appeal No.03 of 2019 directed the learned Commissioner (Appeals) to re-call the case from the Call Book and to pass an appropriate order within a period of 2(two) months. As per the direction of this Court, the learned Commissioner (Appeals) passed an order dated 03.08.2022, rejecting the refund claim on the ground that the respondent had provided taxable service of "Business Support Service" to the BCCI and hence the Service Tax paid was proper disentitling the respondent to get refund. Being aggrieved by and dissatisfied with the order dated 03.08.2022, the respondent preferred an appeal before the learned Tribunal (CESTAT), Kolkata. The learned Tribunal (CESTAT), Kolkata had passed the final order dated 02.03.2023 allowing the refund to the respondent. The said order may be reproduced hereunder, for convenience:

> *"5. We find that the findings of the order of the Tribunal in the case of Vidarbha Cricket Association cited above, is*

squarely applicable in the present case. In fact Vidarbha Cricket Association has organized some cricket matchers for BCCI, whereas TCA has never organized any cricket match for BCCI or rendered any taxable service to BCCI. In the Order- in-Appeal dated 22.02.2022, Commissioner (Appeals) has claimed that the appellants has rendered "Business Support Service" to BCCI. When they have not organized any cricket match, there is no scope for providing ""Business Support Service" to BCCI. Accordingly, we hold that the appellants has not rendered any service to BCCI, which are liable to service tax during the relevant period.

6. In the case of Vidarbha Cricket Association cited above, it has been held that where no service had been provided, no tax was payable and the amount paid erroneously in such cases has to be considered as deposit to the Government Account in respect of which the provision of time bar as provided under Section 11B of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994, does not apply. The same view has been held by the Hon'ble High Court of Tripura also in their order dated 03.08.2022.

7. In view of the above, we set aside the impugned order-in-appeal and hold that the appellants is eligible for refund of Rs.7,73,72,374/ as the time limit prescribed under Section 11B read with Section 83 of the Finance Act, 1994, is not applicable in this case.

8. In view of the above discussion, the appeal filed by the appellants is allowed with consequential relief, if any."

4. On the aforementioned background of facts, we have heard Mr. Paramartha Datta, learned counsel appearing for the appellants as well as Mr. Mr. Nihar Dasgupta and Mr. TK Deb, learned counsel appearing for the respondent/TCA.

5. SUBMISSIONS ON BEHALF OF THE APPELLANTS

5.1 It is contended by Mr. Datta, learned counsel for the appellants that the Hon'ble CESTAT had failed to decide the issue regarding the huge amount being called subsidy/subventions received from the BCCI by the TCA as consideration for the service tax provided by the respondent to the BCCI which is liable to Service Tax under the category of 'Business Support Service', and as such, it is liable to be set aside. Mr. Datta, learned counsel has further contended that the Hon'ble CESTAT also failed to understand that the fact of the ***Vidarbha Cricket Association*** case and the fact of the instant case is different as in the instant case the respondent/TCA have themselves availed the benefit of self assessment under Section 70 of the Finance Act, 1994 and paid the amount of Rs.7,73,72,374/- as service tax under the category, Club or Association Service' which is now under the claim of refund. No demand whatsoever was raised on the assessee i.e. TCA. Hence, the decision of the Hon'ble CESTAT that judgment passed in the case of ***Vidarbha Cricket Association(supra)*** was similar to the instant case is wrong and bad in law.

5.2. The next argument of Mr. Datta, learned counsel for the appellants is that the Hon'ble CESTAT did not consider the fact that a Trust or an Association, registered under Section 12AA of the Income Tax Act does not construe its exemption from the liability of Service Tax but it is required to be gratified and substantiated by engaging charitable activities which the respondent/TCA, in the instant case has not done as the BCCI is commercially exploiting the game of cricket and generating revenue and a huge part of the revenue are being distributed amongst the State Cricket

Associations including the respondent herein for the services they provided to the BCCI.

5.3. Further submission of Mr. Datta, learned counsel for the appellants is that the learned CESTAT did not consider the balance sheets submitted by the respondent/TCA at the adjudication proceeding whereas it can be seen that the respondent organized the BCCI sponsored Ranji Trophy Tournaments during the material period i.e. 2011-12 to 2013-14 and incurred crores of rupees for conducting the matches on behalf of the BCCI. The BCCI provided grants/subsidies to the respondent in the name of "TV Subvention", "IPL, Subvention", "Media Rights Income and IPL Franchise Consideration" which are the source of its income. Hence, the learned CESTAT failed to consider that the amount received by the respondent from the BCCI is entirely for provision of service to BCCI.

5.4. Next, the learned CESTAT did not consider that the respondent in this case despite being registered under multiple categories of services such as 'Rent-a-Cab Service', 'Manpower Recruitment Service', 'Supply Agency Service', 'Sponsorship Service', 'Work Contract Service' etc. had paid the entire amount of Service Tax under ‘Club or Association Service’ only and for other services the respondent did not bother to pay at all. The respondent did not discharge the service tax liability in respect of all the services provided by them under the respective accounting codes by separately working out their service wise service tax liabilities.

6. SUBMISSIONS ON BEHALF OF THE RESPONDENT/TCA

6.1 On the other hand, Mr. Dasgupta, learned counsel for the respondent/TCA submits that the appellants raised a new ground in the

instant appeal, which was not in the original proceedings that the payment/grant received from the BCCI was against rendition of service by the respondent covered under "Business Support Service" as defined under Section 65(104c) read with Section 65(101) zzzq of the Finance Act, 1994. But, it is the plea of the respondent/TCA that the appellants have failed to specify/identify as regards the kinds of service provided by the respondent. In absence of identification of service allocation of business is just to deprive the respondent of a legitimate refund.

6.2 It is submitted that it was under erroneous impression that the respondent/TCA deposited the amount with the appellate authority. To say it otherwise, it was the mistake which they realized later on, forcing them to claim refund.

6.3 Learned CESTAT has correctly held that TCA has not organized any IPL test match or any other international cricket match, and the TCA neither realized/procured any fees/funds nor generated funds through sale of tickets or in any other manner from the viewers/other organization or person during the course of local matches, including very few Ranji matches organized by them or during the course of any activity undertaken by them.

6.4 The respondent/TCA do not provide any service to the BCCI against which payment of Rs.68,86,52,000.00/- was received, which was a pure grant. When TCA had not organized any cricket match, or any such events, there is no scope for providing 'Business Support Service' to BCCI. In furtherance thereof, it is submitted that re-appreciation of facts as discussed and findings thereon by learned CESTAT, the first appellate

authority, may not be interfered with. In support of this submission, learned counsel for the respondent has relied upon the case of ***Harjeet Singh v. Amrik Singh [(2005) 12 SCC 270]*** and the case of ***H.P. Pyarejan v. Dasappa [(2006) 2 SCC 496].***

6.5 It is submitted that Assistant Commissioner, Central Excise and Service Taxes Division, Agartala most illegally and arbitrarily rejected the claim of refund made by the respondent/TCA holding that the refund claimed is barred by law and limitation under order dated 12.04.2015 which was interfered with by learned CESTAT in the appeal and the order passed by the Commissioner was set aside.

7. SUBSTANTIAL QUESTIONS OF LAW.

7.1 While admitting the statutory appeal under Section 35G of the Central Excise Act, 1994 against the final order No.75129/2023, dated 02.03.2023, passed by learned Central Excise & Service Tax Appellate Tribunal ('CESTAT', for short), Kolkata in Appeal No.75752 of 2022, this Court formulated the following substantial questions of law:-

> "*(i) Whether, the impugned judgment passed by the learned CESTAT is perverse as it has not considered the documentary evidence, i.e. Balance Sheet and invoices on record while proceeding to hold that the appellants/respondent herein has not rendered any service to the BCCI which are liable to service tax during the relevant period?*
>
> *(ii) Whether, the learned CESTAT has failed to appreciate that the services provided by the respondent by way of extending infrastructural support to BCCI are in the nature of taxable services under the category of 'Business Support Service' as defined under Section 65 (104c) read with Section 65 (101) zzzq of the Finance Act, 1994?*

(iii) Whether, the learned CESTAT has wrongly relied upon the case of Vidarbha Cricket Association reported in 2015 (38) STR 99 (Tri-Mumbai) rendered by the learned CESTAT, Mumbai?"

8. ANALYSIS

8.1 At the outset, we may deal with the findings of learned CESTAT for both gravity and convenience. In the order, learned CESTAT held that there was no evidence on record to show that the respondent/TCA rendered any service specially the club/association service to the BCCI. Learned CESTAT found that respondent/TCA paid service tax under category of club or association service. Later on, it was realized that they erroneously paid the service tax. After perusal of the decision of the tribunal in the case of ***Vidarbha Cricket Association(supra)***, the ***Vidarbha Cricket Association*** also did not organize any international cricket matches or rendered any taxable service to BCCI. Having realized their mistake that service tax was not payable on the amount received as subsidy/grant from BCCI, the respondent/TCA claimed refund of the said amount as service tax. On consideration of evidence and materials on record, learned CESTAT finally held that the facts and the issues raised by respondent/TCA are squarely similar and identical to the facts and the issues raised in the case of ***Vidarbha Cricket Association(supra).***

8.2 It was further held that the principles laid down by learned CESTAT (Tri-Mumbai) are squarely applicable in the present case. Learned CESTAT did not find any material to come to a finding that TCA had organized any cricket match for BCCI or rendered any taxable service to BCCI. Ultimately, learned CESTAT held that since respondent/TCA had not provided any taxable service, "*no tax was payable and the amount paid*

erroneously in such cases has to be considered as deposit to the Government Account in respect of which the provision of time bar as provided under Section 11B of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994, does not apply".

8.3 Learned CESTAT while allowing the appeal preferred by the respondent/TCA held that:-

(a) Respondent/TCA was entitled to a consequential relief.

(b) The appellants herein are liable to pay interest on the above amount in accordance with law.

Accordingly, learned CESTAT set aside the impugned order-in-appeal and held that the respondent/TCA was eligible for refund of Rs.7,73,72,374/-.

9 Keeping in view the above findings, we are to decide the substantial questions of law formulated herein above. The first substantial question of law to be dealt with is whether the findings arrived at and the impugned judgment passed by learned CESTAT is perverse.

9.1 We have perused the records meticulously. In the considered view of this court, raising of invoice account could have made it susceptible to tax. Therefore, learned counsel on behalf of the appellants strongly relied upon the invoice No.TCA/AGT/13-14/02 dated 30.12.2013. From bare perusal of the said invoice, it becomes apparent that the respondent/TCA had informed the BCCI as regards the amount due to the TCA in view of the resolution passed by BCCI AGM held on 29th September, 2013 out of; *(i) Media Rights income (ii) Franchise Consideration-IPL 2013*.

9.2 However, on minute scrutiny of the materials on record, in no way it can be said that the TCA was supposed to make those payments mentioned in the invoice in lieu of any service rendered. Learned counsel for the appellants further relied upon a cheque payment advice wherein it was found that BCCI had paid a sum of Rs.359,408,179/-(Thirty five crore ninety four lakh eight thousand one hundred seventy nine only) towards amount due to Association as per AGM resolution out of Media Rights income and IPL franchise consideration for IPL 2013. From the aforesaid invoice dated 30.12.2013 and the cheque payment advice dated 10.01.2014, it becomes aptly clear that the respondent/TCA had received grants, or in other words it is legitimate share out of the income of the BCCI from several heads and not any payment on account of services rendered by it to BCCI. The balance sheet annexed to the Memo. of Appeal also does not reveal such a position in any manner. BCCI provides grants/subsidies to the TCA in the name of Media Rights income or IPL Franchise Consideration as per the terms of the BCCI resolution.

10. Reliance is placed upon a decision of the Apex Court in the case of ***Govind Saran Ganga Saran Vs. Commissioner of Sales Tax & Ors.,*** reported in ***1985 (Supp) SCC 205.*** The components which enter into the concept of tax are reiterated at paragraph 6 of the report which is quoted hereinunder:

> **"6. The components which enter into the concept of a tax are well known. The first is the character of the imposition known by its nature which prescribes the taxable event attracting the levy, the second is a clear indication of the person on whom the levy is imposed and who is obliged to pay the tax, the third is the rate at which the tax is imposed, and the fourth is the measure or value to which the rate will be applied for computing the tax liability. If those components are not clearly and definitely ascertainable, it is difficult to say that the levy exists in point of law. Any uncertainty or vagueness in the legislative scheme defining any of those components of the levy will be fatal to its validity."**

10.1 In the present case, the first ingredient i.e. the taxable event attracting the levy i.e. the service tax is absent. The deposit of service tax was made under mistaken idea about the petitioner's liability to pay service tax though there was no service as such provided in favour of the BCCI as is evident from the findings of the learned CESTAT and the scrutiny of the records.

10.2 The TCA had received grants as a legitimate share out of the income of the BCCI from several heads as per the AGM Resolution of the BCCI such as Media Rights Income and IPL Franchise consideration though no such payment was made on account of services rendered by it to the BCCI. If there was no taxable event attracting the levy there was no liability upon the person on whom such a levy is being sought to be imposed by the revenue under the 'Business Support Service' as per Section 65(104c) read with Section 65(101) zzzq of the Finance Act, 1994.

10.3 The exigibility of the service tax upon the petitioner, under the 'Business Support Service" has later been dealt with, in answer to the second substantial question of law. In view of the aforesaid reasons, it cannot be held that the TCA had rendered such services to the BCCI during the relevant period in lieu whereof it had paid an amount of Rs. 7,73,72,374/- as Service Tax with the revenue. Mere deposit of such amount under an erroneous impression, therefore, do not lead to imposition or realization of levy of service tax in the absence of taxable event, in the light of the above principle enunciated by the Apex Court. As such, the first substantial question of law formulated by this Court is answered in negative and is

decided against the appellants since we are unable to find any material to hold that the findings of the learned CESTAT were not based on evidence.

11. Next, dealing with the second substantial question of law, we may reproduce the definition of 'Business Support Service' as provided under Section 65(104c) read with Section 65(101) zzzq of the Finance Act, 1994, which is as follows:

> *"to any person, by any other person, through a business entity or otherwise, under a contract for promotion or marketing of a brand of goods, service, event or endorsement of name, including a trade name, logo or house mark of a business entity by appearing in advertisement and promotional event or carrying out any promotional activity for such goods, service or event."*

Such payments are not in lieu of rendition of service to be covered under "Business support Service" as per Section 65(104c) read with Section 65(101) zzzq of the Act of 1994 under which the revenue has made it liable for service tax.

11.1 Before we delve into the said substantial question of law, we may visit to the decision rendered in ***Vidarbha Cricket Association(supra).*** The learned CESTAT(tri-Mumbai) held that payment/grant received by State Board from the BCCI are not against providing of any 'taxable service'. Furthermore, it was held that profit earned by the BCCI from commercial events like IPL, One-day International Cricket matches used to be shared with the affiliated State Boards in a fixed formula basis for the promotion/development of the game of cricket, irrespective of any participation by the State Boards in organizing such events or not. Thus, the principle laid down in the case of ***Vidarbha Cricket Association(supra)*** is

very much relevant to bring home the point that donation/grant to the State Board made by the BCCI are not taxable. Again, similar view has been expressed by learned CESTAT, Ahmedabad while dealing with the case of **Commissioner of C. EX. & S.T vs *Saurashtra Cricket Association, 2023 (72) G.S.T.L. 93 (Tri.-Ahmd).*** The said judgment being challenged, the Hon'ble Supreme Court of India on hearing the appeal preferred by the Tax Authority endorsed the view taken by learned CESTAT and dismissed the appeal.

11.2 We have already held that there is no material evidence to suggest that the respondent/TCA had provided any service by way of extending infrastructural support to BCCI to attract the definition of 'Business Support Service'. The objectives of grant of subsidy as evident from BCCI's resolution are-

> *"(a) to promote the game of cricket in India;*
> *(b) to arrange, organize, control and finance the visits of Indian Cricket Team to other countries and visits of Cricket Teams of other countries to India;*
> *(c) to build, construct, maintain and repair various stadia and other amenities;*
> *(d) to help junior cricketers, needy cricketers, retiring cricketers, players, umpires and other persons connected with the game of cricket;*
> *(e) creation of infrastructure."*

11.3 Referring to the case of ***Vidarbha Cricket Association(supra),*** learned CESTAT while dealing with the various aspects of 'Business Support Services', discussed and held thus:-

> *"5.5.3 The question is whether these activities constitute Business Support services as defined in the law. As per Section 65(104c) of the Finance Act, 1994 -*
> *'support services for business or commerce' means services provided in relation to business or commerce and includes*

evaluation of prospective customers, telemarketing, processing of purchase orders and fulfilment services, information and tracking of delivery schedules, managing distribution and logistics, customer relationship management services, accounting and processing of transactions, operational assistance for marketing and processing of transactions, operational assistance for marketing, formulation of customer service and pricing policies, infrastructural support services and other transaction processing.

Explanation - For the purposes of this clause, the expression 'infrastructural support services' includes providing office along with office utilities, lounge, reception with competent personnel to handle matches, secretarial services, internet and telecom facilities, pantry and security.

From the above definition, it is evident that the support services should be provided in relation to business or commerce. The question is whether conducting cricket tournaments and telecasting the same would constitute business or commerce.

5.5.4 A similar issue came up for consideration before the Hon'ble Apex Court in the case of Secretary, Ministry of Information and Broadcasting v. Cricket Association of Bengal (supra) and it was held as follows:-

"…….An organization such as BCCI or CAB in the present case which are indisputably devoted to the promotion of the game of cricket, cannot be placed in the same scale as the business organizations whose only intention is to make as large a profit as can be made by telecasting the game. Whereas it can be said that there is hardly any free speech element in the right to telecast when it is asserted by the latter, it will be warped and cussed view to take when the former claim the same right and contend that in claiming the right to telecast the cricket matches organized by them, they are asserting the right to make business out of it. The sporting organizations such as BCCI/CAB which are interested in promoting the sport or sports are under an obligation to organize the sports events and can legitimately be accused of failing in their to do so. The promotion of sports also includes its popularization through all legitimate means. For this purpose, they are duty bound to select the best means and methods to reach the maximum number of listeners and viewers. Since at present, radio or TV are the most efficacious methods,

thanks to technological development, the sports organizations like BCCI/CAB will be neglecting their duty in not exploring the said media and in not employing the best means available to them to popularize the game. That while pursuing their objective of popularizing the sports by selecting the best available means of doing so, they incidentally earn some revenue, will not convert either them into commercial organizations or the right claimed by them to explore the said means, into a commercial right or interest. It must be further remembered that sporting organizations such as BCCI/CAB in the present case, have not been established only to organize sport events or to broadcast or telecast them. The organization of sporting events is only a part of their various objects, as pointed out earlier and even when they organize events, they are primarily to educate the sportsmen, to promote and popularize the sports and also to inform and entertain the viewers. The organization of such events involve huge costs. Whatever surplus is left after defraying all the expenses is ploughed back to them in the organization itself. It will be taking a deliberately distorted view of the right claimed by such organizations to telecast the sporting event to call it an assertion of their commercial right."

From the above decision of the Hon'ble Apex Court, it clearly comes out that sports organizations are not business or commercial organizations, conduct of sports or sporting events and their broadcasting/telecasting is not assertion of commercial rights. The ratio of the above judgment applies squarely to the facts of the case before us. It thus clearly emerges that, the service, if at all any, rendered by the appellants is not in relation to any business or commerce and therefore, there is no service tax liability on the said activity under Section 65(104c) read with 65(105)(zzzq) of the Finance Act, 1994.

5.5.5 From the records, it is seen that the very same activity was examined by the Commissioner of Service Tax at Ahmedabad in the case of Gujarat Cricket Association and Saurashtra Cricket Association and by the Commissioner of Central Excise (Appeals), Pune, in the case of Maharashtra Cricket Association as to their taxability under 'event management service' and the demands were dropped vide orders dated 24-9-2007, 27-3-2009 and 28-7-2006 respectively.

5.5.6 In the light of the above decisions, we hold that the appellants is not liable to service tax under the category of BSS and the service tax demands made in this regard in the impugned orders are unsustainable in law and accordingly are set aside."

11.4 As we said earlier, from careful examination of the records relied upon by the appellants, in the instant case, we find no material that the respondent/TCA had provided any service to the BCCI out of their own generation of income. Thus, the grants or the share received by the respondent-TCA from BCCI do not come within the purview of 'Business Support Service' as defined under Section 65(104c) read with Section 65(101) zzzq of the Finance Act, 1994. In view of this, the second substantial question of law is also answered in negative and against the appellants.

12 Now, dealing with third substantial question of law as to whether the learned CESTAT wrongly relied upon the case of ***Vidarbha Cricket Association(supra)*** to decide the merits of the challenge by respondent/TCA against the impugned order passed by the appellants.

12.1 At the cost of repetition, we have analysed in earlier paragraphs that the facts of the instant case are squarely covered with the facts of the ***Vidarbha Cricket Association(supra)***. In the case of ***Vidarbha Cricket Association(supra)***, learned CESTAT held that ***Vidarbha Cricket Association*** also had received their legitimate shares out of the income generated by BCCI by way of conducting different cricket matches in and outside the country. Similarly, in the instant case, respondent/TCA has also received grants and its legitimate shares from BCCI for the development/promotion of cricket in the State of Tripura. The Hon'ble Supreme Court of India formulated a view on the decision taken by learned

CESTAT in the case of ***Saurashtra Cricket Association(supra)*** and dismissed the appeal preferred by the Commissioner, C. Ex. & S.T., Rajkot. The third substantial question of law is also decided against the appellants.

13. In the light of the above discussions and the reasons recorded hereinabove, in our considered view, the appellants have failed to make out a case to interfere with the judgment and order passed by the learned CESTAT.

14. Resultantly, the respondent/TCA is entitled to get refund of the amount it deposited with the appellant.

Accordingly, the instant appeal stands dismissed.

Pending application(s), if any, also stands disposed.

(ARINDAM LODH, J) **(APARESH KUMAR SINGH, CJ)**