



2024/KER/57152

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

FRIDAY, THE 26TH DAY OF JULY 2024 / 4TH SRAVANA, 1946

ITA NO. 182 OF 2019

AGAINST THE ORDER DATED 08.02.2018 IN ITA NO.428/COCH/2016 OF
INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH (ASST. YEAR 2012-13)

APPELLANT/RESPONDENT/REVENUE:

THE COMMISSIONER OF INCOME -TAX (EXEMPTIONS)
KOCHI

BY ADVS.

SRI.CHRISTOPHER ABRAHAM, INCOME TAX DEPARTMENT

SRI.K.M.V.PANDALAI, INCOME TAX DEPARTMENT

SRI.JOSE JOSEPH

SRI.P.K.RAVINDRANATHA MENON (SR.) (R-348)

RESPONDENT/APPELLANT/REVENUE:

M/S.KERALA CRICKET ASSOCIATION
KCA COMPLEX, SASTHANKOVIL ROAD, THYCAUD P.O.,
TRIVANDRUM

BY ADVS.

SRI.SUNIL NAIR PALAKKAT

SRI.K.N.ABHILASH

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON
26.07.2024, ALONG WITH ITA.NO.32/2018 AND ITA NO.215/2019, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



:2:

ITA No.182-2019
ITA No.32-2018
&
ITA No.215-2019

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

FRIDAY, THE 26TH DAY OF JULY 2024 / 4TH SRAVANA, 1946

ITA NO. 32 OF 2018

AGAINST THE ORDER DATED 18.12.2017 IN ITA NO.78/COCH/2015 &
C.O. 08/COCH/2015 OF INCOME TAX APPELLATE TRIBUNAL, COCHIN
BENCH (ASST. YEAR 2010-11)

APPELLANT/APPELLANT/RESPONDENT/REVENUE:

THE COMMISSIONER OF INCOME TAX (EXEMPTIONS)
KOCHI.

BY ADVS.

SRI.CHRISTOPHER ABRAHAM, INCOME TAX DEP
SRI.JOSE JOSEPH
SRI.P.K.RAVINDRANATHA MENON (SR.) (R-348)

RESPONDENT/RESPONDENT/APPELLANT/ASSESSEE:

M/S.KERALA CRICKET ASSOCIATION
KCA COMPLEX, SASTHANKOVIL ROAD, THYCAUD P.O.,
TRIVANDRUM.

BY ADVS.

SRI.K.N.ABHILASH
SRI.SUNIL NAIR PALAKKAT

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON
26.07.2024, ALONG WITH ITA.182/2019 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



:3:

ITA No.182-2019
ITA No.32-2018
&
ITA No.215-2019

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

FRIDAY, THE 26TH DAY OF JULY 2024 / 4TH SRAVANA, 1946

ITA NO. 215 OF 2019

AGAINST THE ORDER DATED 08.02.2018 IN ITA NO.429/COCH/2016 OF
INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH (ASST.YEAR 2013-14)

APPELLANT/RESPONDENT/REVENUE:

THE COMMISSIONER OF INCOME TAX (EXEMPTIONS)
KOCHI.

BY ADVS.

SRI.KMV.PANDALAI

SRI.CHRISTOPHER ABRAHAM

SRI.JOSE JOSEPH

SRI.P.K.RAVINDRANATHA MENON (SR.) (R-348)

RESPONDENT/APPELLANT/ASSESSEE:

KERALA CRICKET ASSOCIATION
KCA COMPLEX, SASTHAMKOVIL ROAD, THYCAUD P.O.,
THIRUVANANTHAPURAM.

BY ADVS.

SRI.K.N.ABHILASH

SRI.SUNIL NAIR PALAKKAT

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON
26.07.2024, ALONG WITH ITA.182/2019 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



:4:

ITA No.182-2019
ITA No.32-2018
&
ITA No.215-2019

JUDGMENT

Dr. A.K.Jayasankaran Nambiar, J.

In all these IT. Appeals preferred by the revenue, the challenge is to the finding of the Income Tax Appellate Tribunal, Cochin Bench, on the issue as to whether the income received by the Kerala Cricket Association during the assessment years 2010-11, 2012-13, and 2013-14 would partake of the nature of exempted income going by the provisions of Section 2(15) of the Income Tax Act (for short 'the IT Act). It would appear that in the assessment for the assessment year 2010-11, the assessing authority found that the income earned by the assessee Cricket Association would be hit by the proviso to Section 2(15), and therefore, the assessee Cricket Association would not be entitled to the benefit of the exemption. In the appeals preferred by the assessee Cricket Association before the First Appellate Authority, the First Appellate Authority found that the proviso to Section 2(15) of the IT Act could not apply to deny the benefit of exemption to the assessee. This view of the First Appellate Authority was sustained by the Appellate Tribunal in the appeal carried by the revenue.



:5:

ITA No.182-2019
ITA No.32-2018
&
ITA No.215-2019

2. For the assessment years 2012-13 and 2013-14, which are the subject matters of ITA.No.182 of 2019 and ITA.No.215 of 2019 respectively, while the assessing authority had granted the benefit of exemption to the assessee Cricket Association, the revenue had initiated *suo motu* revision proceedings, which culminated in an order of the Commissioner of Income Tax denying the benefit of exemption to the assessee Cricket Association for those years.

3. In further appeals carried by the assessee before the Tribunal, the Tribunal followed its own earlier order for the assessment year 2010-11 and allowed the appeal and the claim for exemption preferred by the assessee Cricket Association.

4. Although in these appeals substantial questions of law have been raised by the revenue with regard to the correctness of the findings of the Appellate Tribunal recognising the entitlement for exemption under Section 2(15) of the IT Act read with Section 12AA of the IT Act, the learned Standing counsel for the revenue Sri. Jose Joseph brings to our notice the judgment of the Supreme Court in **Assistant Commissioner of Income Tax (Exemptions) v.**



:6:

ITA No.182-2019
ITA No.32-2018
&
ITA No.215-2019

Ahmedabad Urban Development Authority [(2023) 4 SCC 561] = [(2022) 449 ITR 1], wherein, with specific reference to incomes earned by State Cricket Associations, the Supreme Court observes as follows at paragraph 237 and 238:

“237. Recent trends have shown that media rights, especially broadcasting and digital media rights have yielded colossal revenues to the BCCI. The model adopted in the last 10 years or so has been to auction media rights in respect of events over a 3 or 5-year period. As discussed previously, these media rights are events over a 3 or 5-year period. As discussed previously, these media rights are not *per se* owned by BCCI, which is but an association of persons or agglomerate of all the State Cricket Association. The stadia which form the venue for these cricket matches (in relation to which media rights are transferred or licensed) are owned by the State Cricket Associations. According to the BCCI itself, the State Associations can well bargain and enter into arrangements for the sale of such media rights. However, to obtain better terms, and gain bargaining leverage a centralized form of sale of such rights has been agreed and adopted by which the BCCI auctions these rights on behalf of the State Associations. All State Associations put together are entitled to 70% of the revenue - i.e., the proceeds of sale of the media rights. This may or may not be in proportion to the events hosted by each or some of the cricket associations. Yet, this forms part of the arrangement by which the consideration flowing from such commercial rights has been agreed to be shared amongst all members of the BCCI. These rights are apparently commercial.

238. In the light of these, the Court is of the opinion that the ITAT – as well as the High Court fell into error in accepting at face value the submission that the amounts made over by BCCI to the cricket associations were in the



:7:

ITA No.182-2019
ITA No.32-2018
&
ITA No.215-2019

nature of infrastructure subsidy. In each case, and for every year, the tax authorities are under an obligation to carefully examine and see the pattern of receipts and expenditure. Whilst doing so, the nature of rights conveyed by the BCCI to the successful bidders, in other words, the content of broadcast rights as well as the arrangement with respect to state associations (either in the form of master documents, resolutions or individual agreements with state associations) have to be examined. It goes without saying that there need not be an exact correlation or a proportionate division between the receipt and the actual expenditure. This is in line with the principle that what is an adequate consideration for something which is agreed upon by parties is a matter best left to them. These observations are not however, to be treated as final; the parties' contentions in this regard are to be considered on their merit."

5. In the light of the aforesaid observations of the Supreme Court, we are of the view that the present appeals need to be remanded to the Appellate Tribunal for a fresh adjudication on the facts, especially with regard to whether or not the amount made over to the assessee Cricket Association by the Board for Control of Cricket in India (BCCI) were in the nature of infrastructure subsidy or business income. We, therefore, set aside the impugned orders of the Income Tax Appellate Tribunal and remand the matter to the Tribunal for a fresh determination of the issue in the light of the observations of the Supreme Court in **Ahmedabad Urban Development Authority (supra)**. The Income Tax Appellate Tribunal shall consider the matter afresh as above and pass final orders



2024/KER/57152

:8:

ITA No.182-2019
ITA No.32-2018
&
ITA No.215-2019

in the appeal within an outer time limit of six months from the date of receipt of a copy of this judgment. We make it clear that all contentions raised by either side in the appeals before the Tribunal, are left open to be considered by the Tribunal at the time of hearing of the appeals.

Sd/-

DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
SYAM KUMAR V.M.
JUDGE

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:9:

ITA No.182-2019
ITA No.32-2018
&
ITA No.215-2019

APPENDIX OF ITA NO.182/2019

PETITIONER ANNEXURES

- ANNEXURE -A** **TRUE COPY OF THE ORDER OF THE ASSESSING OFFICER U/S 143(3) DATED 30.12.2014**
- ANNEXURE -B** **TRUE COPY OF THE ORDER OF THE COMMISSIONER OF INCOME TAX (EXEMPTIONS) U/S 263 O THE IT ACT DATED 22.07.2016**
- ANNEXURE -C** **COPY OF THE ORDER OF THE INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH IN ITA 428 AND 429/COCHI/2016 DATED 08-02-2018**
- ANNEXURE A1** **A COPY OF THE PAPER BOOK PREPARED BY THE COUNSEL OF THE RESPONDENT**



2024/KER/57152

:10:

ITA No.182-2019
ITA No.32-2018
&
ITA No.215-2019

APPENDIX OF ITA 32/2018

PETITIONER ANNEXURES

- Annexure A** TRUE COPY OF THE ORDER OF THE ASSESSING OFFICER U/S.143(3) DATED 26/3/2013
- Annexure B** TRUE COPY OF THE ORDER OF THE COMMISSIONER OF INCOME TAX (APPEALS) DATED 24/2/2014
- Annexure C** COPY OF THE ORDER OF THE INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH IN ITA 78/COCH/2015 DATED 18/12/2017
- ANNEXURE A1** A COPY OF THE PAPER BOOK PREPARED BY THE COUNSEL OF THE RESPONDENT



2024/KER/57152

:11:

ITA No.182-2019
ITA No.32-2018
&
ITA No.215-2019

APPENDIX OF ITA 215/2019

PETITIONER ANNEXURES

- ANNEXURE A** TRUE COPY OF THE ORDER OF THE ASSESSING OFFICER U/S. 143(3) DATED 18.03.2015.
- ANNEXURE B** TRUE COPY OF THE ORDER OF THE COMMISSIONER OF INCOME TAX (EXCEPTIONS) U/S 263 OF THE IT ACT DATED 22.07.2016.
- ANNEXURE C** COPY OF THE ORDER OF THE INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH IN ITA 428 AND 429/COCH/2016 DATED 08.02.2018.