$~SB-1 to 22

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgement reserved on: 31.05.2024

% *Judgement pronounced on: 05.08.2024*

\+ **W.P.(C) 2563/2013**

FASHION DESIGN COUNCIL OF INDIA ..... Petitioner

versus

GOVT. OF NCT OF DELHI AND ANR ..... Respondents

\+ **W.P.(C) 6728/2013**

FASHION DESIGN COUNCIL OF INDIA ..... Petitioner

versus

GOVT. OF NCT OF DELHI & ORS ..... Respondents

\+ **W.P.(C) 4966/2013 & CM APPLs. 11216/2013, 6704/2014, 6706/2014 & 44758/2016**

BOARD OF CONTROL FOR CRICKET IN INDIA..... Petitioner

versus

GOVERNMENT OF NCT OF DELHI & ORS. ..... Respondents

\+ **W.P.(C) 7465/2013 & CM APPLs. 15967/2013, 4926/2014, 13750/2014, 5494/2015 & 12856/2016**

GMR SPORTS PRIVATE LIMITED ..... Petitioner

versus

COMMISSIONER OF EXCISE, ENTERTAINMENT & LUXURY TAX & ANR ..... Respondents

\+ **W.P.(C) 4792/2014 & CM APPL. 9548/2014**

FASHION DESIGN COUNCIL OF INDIA ..... Petitioner

versus

GOVERNMENT OF NCT DELHI & ORS. ..... Respondents

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\+ **W.P.(C) 6767/2014 & CM APPL. 16010/2014**
FASHION DESIGN COUNCIL OF INDIA ..... Petitioner
versus
GOVERNMENT OF NCT DELHI & ORS. ..... Respondents

\+ **W.P.(C) 7495/2014 & CM APPLs. 17744/2014 & 22352/2015**
DEN SOCCER PRIVATE LIMITED ..... Petitioner
versus
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI & ORS. ..... Respondents

\+ **W.P.(C) 2825/2015 & CM APPL. 5077/2015**
FASHION DESIGN COUNCIL OF INDIA ..... Petitioner
versus
GOVERNMENT OF NCT DELHI & ORS. ..... Respondents

\+ **W.P.(C) 2886/2015 & CM APPL. 5179/2015**
FASHION DESIGN COUNCIL OF INDIA ..... Petitioner
versus
GOVERNMENT OF NCT DELHI & ORS. ..... Respondents

\+ **W.P.(C) 3247/2015 & CM APPLs. 5819/2015 & 5820/2015**
FASHION DESIGN COUNCIL OF INDIA ..... Petitioner
versus
GOVERNMENT OF NCT OF DELHI & ORS. ..... Respondents

\+ **W.P.(C) 3308/2015 & CM APPL. 5928/2015**
FASHION DESIGN COUNCIL OF INDIA ..... Petitioner
versus
GOVERNMENT OF NCT DELHI & ORS. ..... Respondents

\+ **W.P.(C) 3626/2015 & CM APPL. 6472/2015**
FASHION DESIGN COUNCIL OF INDIA ..... Petitioner
versus
GOVERNMENT OF NCT DELHI & ORS. ..... Respondents

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\+ **W.P.(C) 6839/2015 & CM APPL. 12508/2015**
FASHION DESIGN COUNCIL OF INDIA ..... Petitioner
versus
GOVERNMENT OF NCT OF DELHI & ORS. ..... Respondents

\+ **W.P.(C) 9166/2015 & CM APPL 20894/2015**
FASHION DESIGN COUNCIL OF INDIA ..... Petitioner
versus

GOVERNMENT OF NCT OF DELHI & ORS. ..... Respondents

\+ **W.P.(C) 12287/2015**
PRO SPORTIFY PRIVATE LIMITED ..... Petitioner
versus
THE COMMISSIONER OF ENTERTAINMENT TAX GOVT.OF DELHI ..... Respondent

\+ **W.P.(C) 1927/2016 & CM APPL. 8262/2016**
FASHION DESIGN COUNCIL OF INDIA ..... Petitioner
versus
GOVERNMENT OF NCT OF DELHI & ORS. ..... Respondents

\+ **W.P.(C) 5994/2016 & CM APPLs. 24660/2016 & 24661/2016**
FASHION DESIGN COUNCIL OF INDIA ..... Petitioner
versus
GOVERNMENT OF NCT OF DELHI & ORS. ..... Respondents

\+ **W.P.(C) 9153/2016 & CM APPLs. 37062/2016 & 37063/2016**
FASHION DESIGN COUNCIL OF INDIA ..... Petitioner
versus
GOVERNMENT OF NCT OF DELHI & ORS. ..... Respondents

\+ **W.P.(C) 9661/2016**
DEN SOCCER PVT LTD ..... Petitioner
versus
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI & ORS. ..... Respondents

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\+ **W.P.(C) 10729/2016**

BOARD OF CONTROL FOR CRICKET IN INDIA.....Petitioner

versus

GOVT. OF NCT OF DELHI & ANR. ..... Respondents

\+ **W.P.(C) 10731/2016**

BOARD OF CONTROL FOR CRICKET IN INDIA.....Petitioner

versus

GOVERNMENT OF NCT OF DELHI & ANR. ..... Respondents

\+ **W.P.(C) 2586/2017 & CM APPL 11183/2017**

GMR SPORTS PRIVATE LIMITED .....Petitioner

versus

COMMISSIONER OF EXCISE, ENTERTAINMENT AND LUXURY TAX & ORS. ..... Respondents

***Present*:** Mr, Arshad Hidayatullah, Sr. Adv., Mr Sandeep Sethi, Sr. Adv., along with Mr Jitendra Singh and Mr Anshumaan Sahni, Advs. for Fashion Design Council of India.

Mr A.S. Chandhiok, Sr Adv. with Ms Purva Kohli, Mr Deep Bisht and Ms Suryaprava Basu, Advs. for petitioner in WP (C) 7465/2013 & 2586/2017.

Mr Kamal Sawhney, Mr Krishna Rao and Ms Aakansha Wadhwani, Advs. for petitioners in WP (C)Nos.4966/2013, 10729/2016 & 10731/2016.

Mr Satyakam, ASC, with Mr Pradyut Kashyap, Advs. for GNCTD.

Mr Sameer Vashisht, ASC (Civil), GNCTD with Mr Aman Singh Bhadoria, Mr Prem Singh and Mr Arjun Gupta, Advs. in WP (C) 2563/2013, 3626/2015, 12287/2015, 10731/2016 & 2586/2017.

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
[Physical Hearing/Hybrid Hearing (as per request)]

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RAJIV SHAKDHER, J.:

I. PREFACE

1. The above-captioned matters have been placed before me due to the order dated 22.12.2017 passed by the Division Bench comprising Hon'ble Mr Justice S Ravindra Bhat and Hon'ble Ms Justice Deepa Sharma, former Judges of this Court, because of the cleavage in their views.

1.1 The order, thus, recorded the following aspects on which the two Judges had come to different conclusions:

> "*1) Did the pre-amended Section 2 (m) of the Delhi Entertainment and Betting Tax Act, 1966 ("the Act") cover sponsorship of fashion shows and sporting events so as to extend the incidence of tax under Section 6?*
>
> *2) Whether the introduction of Explanation 2, with retrospective effect by the amendment in 2012, is contrary to Article 14 of the Constitution, or is it merely clarificatory?*
>
> *3) Does the levy of tax (on sponsorship) under the Act fail by reason of [the] absence of a specific charging provision?*
>
> *4) Does the Act contain a mechanism for assessment and collection of tax on such sponsorships, if it validly levies the tax, or is such mechanism absent?*"

2. Although there are twenty-two (22) writ petitions, there are only five (5) petitioners, i.e., Fashion Design Council of India (FDCI), GMR Sports Private Limited (GMR Sports), Board of Control for Cricket in India (BCCI), Den Soccer Private Limited (Den Soccer), and Pro Sportify Private Limited (Sportify) [wherever necessary, they would be collectively referred to as "writ petitioners" if the context so requires].

3. Furthermore, the reliefs claimed by the aforementioned entities fall under the following broad heads:

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(i) Quash the subject assessment orders.

(ii) Set aside communications/notices issued by the respondents/revenue [hereafter collectively referred to as "GNCTD"] calling upon the concerned entities to deposit tax payable, according to it, under the Delhi Entertainments and Betting Tax Act, 1996 [hereafter referred to as the "Entertainment Tax Act"].

(iii) Issue directions for refunding the amounts deposited under protest towards tax demand.

(iv) Quash communications/notices, calling upon the concerned entity to produce documents/communications disclosing sponsors and the agreements entered into between the entity and the sponsor.

(v) Quash the notification dated 01.10.2012 whereby, Explanation 2 was added to Section 2(m) of the Entertainment Tax Act, which defines the expression "payment for admission".

4. Since the constitution and framework of the five (5) entities that have filed the writ actions are different, a brief description of them would be in order.

II. BRIEF DESCRIPTION OF THE WRIT PETITIONERS

FDCI

5. FDCI is a society registered under the Societies Registration Act of 1860. It has been established and constituted to promote the growth and development of the fashion industry concerning the manufacture, design, marketing, and distribution of apparel and other accessories.

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6. Towards this end, the FDCI organises fashion shows.

6.1 On a few occasions, the Ministry of Textiles and other government bodies have supported FDCI in this regard under, what is known as, the 'Market Access Initiative'.

6.2 Significantly, the fashion shows organised by FDCI are not ticketed events [hereafter "non-ticketed events"]. Participation in fashion shows is solely through invites.

6.3 FDCI finances fashion shows, amongst other means, through sponsorships. The fashion show events are either directly sponsored or *via* partnership agreements entered into with the concerned sponsor.

6.4 In lieu of sponsorship amounts, FDCI offers certain rights such as the right to associate as a title sponsor or presenting partner; the right to have the sponsor's logo presented as part of a composite event logo, which is then, embedded in communications sent out, and promotion material distributed; the right to get the designation logo and marks placed in advertising and promotion material; the right to hold official parties or cohost the party in joint names; the right to manage the fashion show event; right to have VIP lounge bear joint names; right to name the main precincts where the fashion show would take place; right to have the agreed title for the pavilion; right to secure the display area at the event; right to get their names published in opening and closing events; right to chair press conferences with the composite event logo as the backdrop; right to have the composite event logo placed on invites, accreditation passes, official

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brochures, and website and during media coverage; the right to use pictures of designers; and the right to give television interviews, etcetera.

7. According to FDCI, the invites handed out to the sponsors are not correlated to the sponsorship amount provided by them.

8. FDCI avers that it has provided the necessary information concerning fashion show events held by it as required [being a non-ticketed event] in Form 6 prescribed under Rule 11 of 'The Delhi Entertainments and Betting Tax Rules, 1997' [hereafter referred to as the "1997 Rules"].

9. FDCI also asserts that in the past, it has sought and been granted exemption from payment of Entertainment Tax as per Section 14(3) of the Entertainment Tax Act.

9.1 As required, exemption was sought by FDCI by providing the necessary information in the prescribed form, i.e., Form 14 under Rule 36 of the 1997 Rules.

9.2 It is a matter of record that FDCI received complete exemption from payment of Entertainment Tax between 2002 and 2007. However, vis à vis 2008-09, FDCI's exemption was cut down to half.

10. The record discloses that of the twenty-two (22) writ petitions, fourteen (14) writ petitions have been filed by FDCI.

10.1 Of the fourteen (14) writ petitions, six (6) writ petitions pose a challenge to assessment orders passed against FDCI. For convenience, the details of writ actions and assessment orders assailed, are set forth hereafter:

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Writ petition no.	**Period of assessment**	**Date of assessment order**	**Amount assessed (Rs.)**
6728/2013	06.10.2012 to 10.10.2012	08.03.2013	82,07,025/-
4792/2014	26.03.2014 to 30.03.2014	19.06.2014	1,66,95,407/-
2886/2015	15.07.2014 to 19.07.2014	29.12.2014	50,32,500/-
3247/2015	13.03.2013 to 17.03.2013	29.12.2014	1,55,70,031/-
3308/2015	09.10.2013 to 13.10.2013	29.12.2014	1,43,22,958/-
3626/2015	31.07.2013 to 04.08.2013	29.12.2014	55,08,750/-

10.2 The remaining writ petitions preferred by FDCI seek to assail communications issued by GNCTD, among other things, calling upon it to deposit 15% of sponsorship receipts and other amounts received at the fashion show event, as alluded to in Section 2(m) of the Entertainment Tax Act.

10.3 For convenience, the direction contained in the communication *qua* which FDCI is primarily aggrieved by, is extracted hereafter:

> "*Sir,*
>
> *With reference to your letter dated 03.09.2014 on the subject cited above, I am directed to request you to furnish the following documents at the*

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earliest for processing your application to issue [a] No Prohibitory Order:

... .

"*5. Details of sponsorship received/receivable alongwith agreements and security of Entertainment Tax in the form of Demand Draft @15% of total sponsorship receipts and other receipts as per section 2(m) of the DEBT Act, 1996.*"

GMR Sports

11. GMR Sports is incorporated under the Companies Act, 1956. It is in the business of conducting commercial activity in the sports arena.

11.1 The main objects for which GMR Sports is incorporated are, *inter alia*, to provide sports infrastructure and consultancy; organise sports events; maintain sports teams; construct, maintain, and lease indoor stadiums; provide coaching, engage umpires and groundskeepers; undertake sports and cultural activities; conduct and organise sports-related tours, travel clubs, and ticketing services; form, acquire, run, and operate teams in various sports; and take part in domestic, national and international events.

11.2 The record reveals that BCCI granted GMR Sports franchisee rights to form a cricket team to represent Delhi in the IPL Twenty-20 cricket tournament.

11.3. In accordance with the obligations associated with being a franchisee in the tournament, GMR Sports was responsible for building the cricket team to represent the franchisee; organising matches at Delhi; identifying and arranging sponsorship for the team; advertising and publicising the tournament; and printing, selling and distributing tickets for the cricket matches to be held at Delhi.

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11.4 Having established the team, GMR Sports entered into agreements with various sponsors. The benefits granted to the sponsors included logo positioning on team shirts, playing, and practice kits; branding and logo in marketing materials; the right to use the team logo; and the right to become the 'official partner' of the team and players.

12. GNCTD's insistence on levying Entertainment Tax on sponsorship amounts is an aspect that GMR Sports seeks to challenge in the two writ actions it filed.

12.1 Thus, in WP (C) 2586/2017, apart from assailing the insertion of Explanation 2 to Section 2(m) of the Entertainment Tax Act, GMR Sports seeks to assail the communication dated 16.03.2017 issued by GNCTD, which requested deposit of Entertainment Tax at the rate of 15% on tickets as well as on sponsorship receipts for two (2) matches held in 2017.

12.2 Likewise, in WP (C) 7465/2013, GMR Sports seeks a direction to quash notices issued by GNCTD calling upon it to pay Entertainment Tax on GMR's sponsorship receipts for IPL seasons 2010, 2011, 2012, and 2013. A consequential direction is also sought to the effect that GNCTD should refund Rs.12,65,05,420/—paid by it under protest for the IPL matches held in the years 2010-2013.

Den Soccer

13. Den Soccer is registered under the Companies Act, 1956. Football Sports Development Private Limited granted it franchisee rights, which enabled it to put together a football team to represent Delhi in the 'Indian Super League'.

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13.1 As a tournament franchisee, Den Soccer was obligated to organise certain matches in Delhi. As a part of this arrangement, Den Soccer was to print, sell, and distribute tickets for the matches held in Delhi.

13.2 Den Soccer also approached sponsors. In return for sponsorship amounts, sponsors received benefits such as displaying the sponsors' company logo or trading name; exclusive or priority booking rights; and conferring the right to sponsor prizes and trophies.

13.3 The record discloses that Den Soccer sought approval from GNCTD *via* a letter dated 29.09.2014 for holding three (3) football matches in Delhi on 14.10.2014, 25.10.2014, and 29.10.2014.

13.4 As sought, GNCTD granted a "no prohibitory order", i.e., approval, *via* communication dated 01.10.2014 with certain conditions stipulated therein.

13.5 One of the conditions stipulated in the communication dated 01.10.2014 was that Den Soccer would furnish the details of sponsors along with the amount received.

13.6 On 20.10.2014, Den Soccer wrote to GNCTD stating that while it was negotiating with entities for sponsorship, agreements had to be finalised. However, the letter did disclose that although no sponsorship amount was received, Den Soccer had started displaying brands/logos on LED panels within the stadium and on player jerseys for the first three (3) games, on a good-faith basis.

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13.7 The record discloses that on 27.08.2014 and 04.09.2014, Den Soccer had written to GNCTD to seek exemption from payment of Entertainment Tax under Section 14 of the Entertainment Tax Act.

14. Having received no response to its plea for exemption and apprehending the imposition of Entertainment Tax, Den Soccer instituted WP (C) 7495/2014 to assail the notification dated 01.10.2012, which added Explanation 2 to Section 2(m) of the Entertainment Tax Act.

15. Based on a similar apprehension, WP (C) 9661/2016 was instituted to challenge condition twelve (12) contained in the letter dated 06.10.2016 issued by GNCTD, which required Den Soccer to submit details available, if any, of new sponsors along with Entertainment Tax payable on sponsorship amounts.

Sportify

16. Sportify is incorporated under the Companies Act, 1956. Sportify avers that it owns the 'Pro Wrestling League' (PWL). It is asserted by Sportify that PWL is a joint initiative of Sportify and the Wrestling Federation of India.

16.1 According to Sportify, PWL's object is to promote wrestling among young people worldwide.

16.2 As per the model put in place, six (6) teams participate in PWL, comprising national and international players. PWL has six (6) city-based franchisee teams with a pan-India reach. Each team consists of nine (9) players: five (5) Indians and four (4) foreigners. Of the nine (9) players, five (5) have to be men, and the remaining four (4) are women.

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16.3 The record discloses that *via* notice dated 21.12.2015, GNCTD called upon Sportify to appear before the concerned authority on 18.12.2015 [sic] along with certain documents, such as agreements executed between Sportify and the sponsors. This notice was issued in the context of an inspection carried out by GNCTD, which revealed that entry to the event was available based on 'VIP invitations' [when entry should not have been allowed without tickets] and that Sportify had failed to disclose names of certain sponsors for the event such as Thums Up, Jaguar, Bright, Piccadilly, Shivnaresh, Babur, etcetera.

16.4 Sportify wrote back to GNCTD on 21.12.2015, stating that, given that the event was scheduled for that day, i.e., 21.12.2015, it would submit relevant documents and applicable taxes before the next event scheduled on 25.12.2015. Sportify also requested GNCTD issue a "No Objection Certificate" [NOC] for the event on 21.12.2015.

16.5 GNCTD approved the event on the same date, i.e., 21.12.2015, with certain conditions stipulated in the NOC.

17. Aggrieved by the notice dated 21.12.2015, Sportify instituted WP (C) 12287/2015.

BCCI

18. BCCI is a society registered under 'The Tamil Nadu Societies Registration Act, 1975'. BCCI avers that it is the conceptualiser of the tournament called the Indian Premier League [IPL].

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18.1 It is BCCI's stand that for convening and holding IPL cricket matches, it grants franchisee rights to various entities. One such entity is GMR Sports, which as noticed above, has also instituted writ petitions in this Court.

18.2 According to BCCI, the host franchisee retains the amount received from the sale of tickets concerning cricket matches held at the host stadium. That said, franchisees are obligated to provide BCCI with tickets, free of charge, for matches played at the franchisee's stadium. By way of example, GMR Sports holds its cricket matches in Delhi at the Arun Jaitley Stadium [earlier known as the Ferozeshah Kotla Stadium]. Delhi District Cricket Association [DDCA] owns the Arun Jaitley Stadium. GMR Sports retains the amount received from the sale of tickets. GMR Sports, in turn, pays DDCA certain amounts for use of the cricket stadium.

19. BCCI claims that it only administers cricket in India and has no direct involvement in the cricket matches organised by a franchisee, for instance, GMR Sports.

20. The record discloses that BCCI has also negotiated with various sponsors. These sponsors get designations like the 'official sponsor' of IPL, the 'official associate sponsor' of IPL, etcetera. BCCI also receives direct sponsorships from various entities to promote and advertise its goods and services in IPL matches.

20.1 The three writ actions instituted by BCCI refer to the following sponsors: DLF, Citi Bank, Hero, Vodafone, Volkswagen, Karbonn, Pepsi, Star Plus, Vodafone, United Spirits Limited, Yes Bank, VIVO Mobile India

Private Limited, Accelyst Solution Private Limited, Ceat Limited, and Maruti Suzuki India Limited.

21. BCCI instituted these writ actions as GNCTD seeks to impose Entertainment Tax on sponsorships received for IPL matches held in Delhi.

22. In WP (C) 4966/2013, BCCI, among other things, assails all actions taken pursuant to the insertion of the impugned Explanation, i.e., Explanation 2, including the notice dated 14.01.2013, and all steps taken in accordance with the notice dated 14.01.2013.

22.1 *Via* notice dated 14.01.2013, GNCTD had called upon BCCI to furnish details of agreements executed with various sponsors for all the IPL matches held in the Ferozshah Kotla ground [Arun Jaitley Stadium] since 2008 and deposit dues towards Entertainment Tax.

23. In WP (C) 10729/2016, BCCI seeks issuance of a direction to GNCTD to refund Rs.1,07,97,000/- deposited under protest towards Entertainment Tax on sponsorship amounts for IPL matches held on 25.05.2016 and 27.05.2016.

24. In WP (C) 10731/2016, BCCI seeks a refund of Rs.69,07,895/- deposited towards Entertainment Tax on sponsorship, *albeit* under protest. BCCI paid this amount on sponsorship amounts received from Pepsi, Star Plus, Vodafone, United Spirits Limited, and Yes Bank for seventy-six (76) IPL matches held up until 10.05.2013.

III. ISSUE

25. Given the backdrop and considering the framework of the writ actions filed by the five (5) entities before me, the critical issue that requires determination is whether sponsorship receipts constitute "payment for admission to entertainment".

25.1 The issue culled out above would require to be answered, *inter alia*, bearing in mind the scheme of the Entertainment Tax Act and the Rules, in particular, Sections 2(aa), 2(m), 2(u), 6, 7, 8, 9, 10, and 15 of the Entertainment Tax Act; Rules 6 to 8 and 11 of the 1997 Rules; and Forms 3, 5 and 6 appended to the 1997 Rules.

IV. OVERVIEW OF THE DIVISION BENCH JUDGMENT

26. At this stage, it would help if the key findings returned by the learned Judges were culled to better appreciate the issue arising for consideration.

Ravindra Bhat, J.

27. Bhat J. has returned the following findings:

(i) The fashion show events organised by FDCI are non-ticketed events, and individuals are admitted through special invites issued by the organisers to potential buyers of products showcased at the event.

(ii) Fashion shows do not have a "public colour" since entry to the events is restricted to a select audience. A member of the public cannot buy a ticket and watch the show.

(iii) The goods/products showcased at the fashion show are branded and are promoted through stylisation. After-parties and special

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appearances by models are driven towards creating an interest in the product goods/apparel showcased at the event.

(iv) The dominant purpose of holding fashion shows is to promote business. The audience's incidental entertainment would not constitute "entertainment" as understood under the Entertainment Tax Act.

(v) FDCI does not advertise its invites. The events held by FDCI are organised by a group of industry experts to further their business interests. Therefore, entry to such events cannot be categorised as "entertainment" as those attending the event do not derive any pleasure or amusement. They witness the event simply to further their business interests.

(vi) If FDCI events are classified as "entertainment", automobile and defence exhibitions that showcase products at high-end venues to niche clientele would also fall within this category.

(vii) An explanation appended to a provision, i.e., Explanation 2, in the enactment cannot widen the scope of the original provision. It cannot be at odds with the principal enactment or the existing provisions. An Explanation cannot be used to enhance the Act's scope or suppress a mischief.

(viii) Under Section 6(6) of the Entertainment Tax Act, "payment for admission to an entertainment" is sought to be taxed. Thus, under Section 6(6) of the Entertainment Tax Act, the taxing event is

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payment for admission to entertainment, not the entertainment event itself.

(ix) The expression "payment for admission to an entertainment" would be payment for entry to enjoy or derive amusement from an entertainment event. The sponsors, who are not the main organisers of the fashion event, enter the place of entertainment to set up advertisements and banners containing logos, all of which are displayed by the organisers at the event. The sponsor, in effect, buys space to sell its products and further its business. A sponsor does not pay for gratification or to derive pleasure from the events; these are business transactions to be understood in the commercial sense. The sponsor is not the one getting entertained.

(x) Under Section 6(6) of the Entertainment Tax Act, taxes that are levied on payments made through "subscription, contribution, donation, or otherwise" are made for securing seats or any other accommodation in lieu of entertainment and not for furthering business prospects through advertising and other promotional activities.

(xi) To tax sponsors who pay money to secure space for business purposes would be an incongruity under the Entertainment Tax Act.

(xii) Mere admission to an entertainment event cannot result in Entertainment Tax being attracted to sponsorship amounts received by entities referred to above, i.e., FDCI, BCCI, GMR Sports, Den Sports,

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and Sportify as the said amounts are received in lieu of sponsors being given the right to advertise their products, brands and logos.

(xiii) In particular, where BCCI and GMR Sports are concerned, admission to cricket matches is regulated through a single ticket [on which Entertainment Tax is paid], and if entry to the very same event becomes the basis for levy of Entertainment Tax [finding its source in payments made for sponsorship], multiple taxing incidences would be created.

(xiv) The Entertainment Tax Act does not provide a defined and valid collection mechanism for sponsorship receipts.

(xv) Explanation 2 appended to Section 2(m) is not clarificatory. It introduced a new element concerning sponsored events that were not within the scope and ambit of the unamended Entertainment Tax Act.

(xvi) In the absence of any change/amendment in the charging section, applying the impugned Explanation retrospectively would not accord legal validity to the impost. Therefore, retrospective assignment *via a* notification dated 01.10.2012 can have no consequences.

(xvii) Furthermore, the notification dated 01.10.2012, whereby, a new levy was sought to be introduced, *albeit*, retrospectively, would be unreasonable as it would impose onerous obligations on transactions carried out during the period in which the amendment was not in force.

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(xviii) The doctrine of waiver or estoppel would not apply to entities that sought exemptions or deposited tax pursuant to demands because there can be no waiver of fundamental or other statutory rights. The procedural doctrine of estoppel or waiver cannot prevent relief from being granted to such entities.

(xix) The addition of Explanation 2 to Section 2(m), i.e., the impugned amendment, would not result in a valid levy of Entertainment Tax on sponsorship receipts.

(xx) The levy of Entertainment Tax on sponsorship receipts would fail as no separate machinery is provided for its collection.

(xxi) Explanation 2 is not clarificatory. According retrospective effect to Explanation 2 would result in imposing onerous and harsh conditions on the writ petitioners [i.e., the organisers/event proprietors]. This would render Explanation 2 and the resultant tax violative of Articles 14 and 265 of the Constitution.

(xxii) The writ petitioners are entitled to seek a refund with interest at the rate of 7% per annum, commencing from the date of deposit/payment.

Deepa Sharma, J.

28. Sharma J. has returned, broadly, the following findings:

(i) The definition of the expression “payment for admission” under Section 2(m) of the Entertainment Tax Act has the widest import as it is an inclusive definition.

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(ii) The Legislature has consciously used the expression "includes" in Sections 2(m) and 2(aa) of the Entertainment Tax Act. Section 2(m), which defines "payment for admission" and Section 2(aa), which defines "admission to an entertainment", seek to include all payments with an intent to curtail non-payment of Entertainment Tax. The object of the Entertainment Tax Act is to prevent tax avoidance by the adoption of disingenuous methods to funnel payments to organisers/proprietors of entertainment events.

(iii) The "accommodation" made available for the display of products or logos, or even advertisements in a place of entertainment, in lieu of payment should be construed as "payment for admission to an entertainment". Similarly, any payment, including sponsorship amounts, which is connected with entertainment and, in lieu of which a person is allowed to attend/view the entertainment on display, would necessarily have to be construed as "payment for admission".

(iv) Thus, if the provisions of Sections 2(m) and 2(aa) of the Entertainment Tax Act are read together, the following conclusion emerges: when payment is made to provide "accommodation" for displaying advertisements, logos, etcetera, such payment would be liable for imposition of tax as it would constitute "admission" to a place where entertainment is held. Similarly, "any payment", "by whatever name called" "which a person is required to make" as a condition precedent for attending or continuing to attend an entertainment event, shall also be construed as "payment for admission" under Section 2(m) of the Entertainment Tax Act. Thus,

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payments made in the form of provision of free meals, beverages, decoration of the venue, or other services or benefits extended to the organisers of the event come within the ambit of the expression "payment for admission" as defined under Section 2(m) of the Entertainment Tax Act.

(v) Explanation 1 [which is the original Explanation appended to Section 2(m)] clarifies that the expressions used in Section 2(m)(iv) of the Entertainment Tax Act, such as "any payment", "by whatever name called", "for any purpose whatsoever", cover "subscription raised, contribution received" and "donation collected in connection with an entertainment". Therefore, sponsorship receipts could be taxed even under the unamended Entertainment Tax Act.

(vi) Explanation 2 appended to Section 2(m) only clarifies the original provision.

(vii) Fashion shows are entertainment events within the meaning of the Entertainment Tax Act. This aspect is no longer *res integra* given the conclusion arrived at in the judgment dated 30.04.2012 rendered by the coordinate Bench in a bunch of petitions filed by FDCI [the lead petition being WP (C) 1145/2010]. Paragraphs 15 and 16 of the said judgment demonstrate this aspect.

(viii) In any event, whether a fashion show is an entertainment event that falls within the ambit of the Entertainment Tax Act must be determined by the concerned statutory authorities in terms of the

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principles of law enunciated by the Courts and based on evidence and documents produced by the assessee.

(ix) Regarding the extent of exemption from Entertainment Tax, the aforementioned judgment of the coordinate Bench dated 30.04.2012 attained finality whereby it was held that FDCI was liable to pay 50% of the leviable tax. This is evident as the Special Leave Petition preferred against the judgment was withdrawn by FDCI with permission to approach the appropriate forum if the concerned authority passed an adverse order, pursuant to the remand direction issued by the coordinate Bench.

(x) Section 6(6) clarifies that the Legislature intended to give the broadest possible interpretation to the expression "payment for admission" obtaining in Section 2(m) to avoid theft of tax. Section 6(6) envisages the levy of Entertainment Tax on two types of payment, i.e., the payment that is "made wholly or partly", "in lumpsum" such as by way of "subscription, contribution donation", and secondly, on the amount of "payment for admission", "if any", "made otherwise". Thus, if Section 6(6) is superimposed on Section 2(m), it is clear that the charge is only levied on payments made otherwise, which would include benefits, services, etcetera, extended to organisers/proprietors of entertainment events.

(xi) Explanation 2 is clarificatory and intends to prevent the entertainment industry from exploiting loopholes to avoid payment of taxes.

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(xii) Legislatures have the competence to legislate both retrospectively and prospectively, and therefore, taxation law is no exception to this power. The retrospective effect of Explanation 2 does not make it illegal for two reasons: first, the Legislature says so in explicit terms, and second, it does not affect the existing rights of the parties.

(xiii) A conjoint reading of Section 6(6) and Section 2(m) of the Entertainment Tax Act would show that "any payment" "made otherwise" "in any form" is taxable. Therefore, it cannot be said that the Entertainment Tax Act does not contain a charging provision concerning sponsorship receipts.

(xiv) The organisers of sponsored entertainment events cannot escape their liability to pay taxes simply because they are receiving taxable amounts in the form of non-cash services and benefits instead of cash.

(xv) *Inter alia*, Section 6(4) of the Entertainment Tax Act provides the machinery for levying Entertainment Tax.

(xvi) Placing advertisements and displaying products, etcetera, in a place of entertainment falls within the ambit of the expression "admission to an entertainment" as provided in Section 2(aa) of the Entertainment Tax Act.

(xvii) Explanation 2, i.e., the impugned amendment, is explanatory and clarificatory.

(xviii) Explanation 2 to Section 2(m) does not create a new levy.

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(xix) The Entertainment Tax Act has "sufficient machinery" to levy tax on sponsorship receipts.

(xx) Petitions seeking to challenge assessment orders passed by GNCTD have been unable to pinpoint any defects and, therefore, must fail.

(xxi) Communications/Notices assailed by the Writ Petitioners do not require interference. Writ petitions assailing the same are meritless.

V. SUBMISSIONS ADVANCED BY COUNSEL

29. Messrs A.S. Chandhiok, Arshad Hidayatullah, Sandeep Sethi, Kamal Sawhney, and Jitendra Singh advanced submissions on behalf of the writ petitioners. Likewise, on behalf of the official respondents, in effect, GNCTD, Mr Satyakam, Additional Standing Counsel, Mr Ramesh Singh, Standing Counsel, and Mr Sameer Vashisht addressed arguments.

30. Both sides aligned their submissions with the judgment which was in their favour. While the writ petitioners contended that the view taken by Bhat J. was the correct view, on behalf of GNCTD, submissions were advanced in support of the opinion expressed by Sharma J.

31. Therefore, in a sense, Bhat J. and Sharma J. have largely captured and dealt with the contentions raised on both sides in their respective judgments.

31.1 Thus, for brevity, I would pen down the broad contours of the arguments advanced on behalf of the writ petitioners and GNCTD.

32. On behalf of the writ petitioners, the following submissions were made:

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32.1 The first two (2) questions referred to this Court by the Division Bench comprising Bhat J. and Deepa Sharma J. primarily concern the constitutional validity of Explanation 2 added to Section 2(m) of the Entertainment Tax Act. If the contention of GNCTD, that sponsorships received by the writ petitioners were amenable to Entertainment Tax even before Explanation 2 was brought in by virtue of Notification dated 01.10.2012, was taken to its logical extent, then there was no necessity of amending the Entertainment Tax Act. This issue was directly and correctly answered by Bhat J. as is reflected in paragraph seventy-seven (77) of his judgment. For convenience, paragraph seventy-seven (77) is extracted hereafter:

> "*77. The argument that sponsored events and sponsorship per se were covered by the un-amended Act, is therefore, insubstantial and rejected. The sequitur is that the amendment introduced a new element. By itself, in the absence of change to the enacting part creating a levy, (as discussed previously) the addition of the two impugned explanation, with retrospective effect cannot result in a valid impost; such impost cannot be retrospective in character. It is therefore held that the amendment is not clarificatory; it is also of no consequence given that there is no amendment to the charging section. Nor has a fresh charging provision been introduced introducing a fresh levy. In view of the opinion expressed as to the effect of the amendment, it is held that the retrospectivity assigned to it, is of no consequence. However, it is also held that as an amending enactment, which sought to introduce a new levy, which did not exist earlier, the impugned notification would be unreasonable because it would – were it indeed operative - impose onerous obligations upon transactions and those sought to be covered by it, for periods when it was not in force. Those ostensibly covered by it, would have to provision for demands which could not have been levied, because those obligations did not exist.*"

32.2 The writ petitioners had contended before the Division Bench that sponsorship is a taxable service under the Finance Act, 1994 [hereafter referred to as the "Service Tax Act"]. This is evident upon perusal of Section 65(99a) and Section 65(105), provisions which define "sponsorship" and

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"taxable service", respectively. Sponsorship is included as a 'taxable service' at zzz(n) in Section 65(105).

32.3 Section 66 of the Service Tax Act provides the rate at which tax would be levied. The tax rate for taxable services [including sponsorship receipts] referred to in the said provision is twelve percent (12%). Therefore, tax on services falls within the ambit of the Union List, i.e., List I in Schedule VII of the Constitution. The power exercised by the Union of India at the relevant time to tax sponsorship receipts under the Service Tax Act was sourced in Entry 92(c) of List I of Schedule VII, which read as follows:

"*Taxes on services*"

32.4 Entry 92(c) was, however, omitted from the Constitution *via* the One Hundred and First (101st) Amendment Act, 2016.

32.5 Although the Legislature can levy two separate taxes emanating from a single transaction, for instance, service tax and Entertainment Tax, in the case of sponsorship amounts, Entertainment Tax could not have been levied by GNCTD as sponsors were not being 'entertained'. Furthermore, since service tax and Entertainment Tax were levied on the gross amount at a given point in time, the Entertainment Tax Act should have provided a mechanism to bifurcate the amounts subject to such tax *qua* sponsorship.

32.6 GNCTD's attempt to impose and collect tax on 'sponsorship services' is illegal and *ultra vires* the Constitution. GNCTD's power to collect tax falls within the ambit of Entry 62 in List II of Schedule VII of the Constitution which, pre- and post-amendment, read as follows:

32.7 Pre-amendment:

"*Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.*"

32.8 Post-amendment:

"*Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.*"

32.9 The tax incidence under Entry 62 of List II, Schedule VII, is on the person being entertained and not on the event sponsorship. Thus, the provisions of Section 2(m) read with Explanation 2, whereby Entertainment Tax is sought to be collected on sponsorship receipts, are *ultra vires* on the ground of GNCTD's legal competence to levy Entertainment Tax.

33. Section 2(m) of the Entertainment Tax Act, which defines the expression "payment for admission", is the measure of tax. Thus, Explanation 2 added to this section only expanded the scope of the tax measure by including sponsorship receipts. There is no nexus between the tax measure and the taxable event, which is adverted to in Section 6(1), i.e., "payments for admission to any entertainment". The writ petitioners have received sponsorship amounts in lieu of rights conferred on the sponsors to advertise their goods, brands, logos, etcetera. For instance, IPL cricket matches, football, or wrestling events organised under the aegis of ISL and PWL, are ticketed events on which appropriate tax is paid. However, sponsorship amounts received for advertisements can bear no tax as there is no nexus with the taxable event, i.e., admission to entertainment for ticketed events. Importantly, requisite Entertainment Tax is paid even for complimentary tickets that are not connected in any way with the sponsorship amounts received by the organisers/writ petitioners.

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33.1 The measure of tax ought to be related to the taxable event. All components of tax must be interconnected. [***State of Rajasthan v. Rajasthan Chemists Assn.***, (2006) 6 SCC 773].

33.2 Without a charging provision concerning sponsorship receipts, the imposition of tax should fail. [See ***Tata Sky Ltd. v. State of MP***, (2013) 4 SCC 656]. The intrinsic evidence of why the charging section, i.e., Section 6 or any separate provision in the Entertainment Tax Act, should have been configured by the Legislature is brought to the fore with the amendments made in the said Act *via* the (Amendment) Act, 2009. *Inter alia*, *via* the said amendment, which was carried out on 05.01.2010 and brought into effect from 01.02.2010, Section 7, along with other attendant provisions, were inserted to bring within the ambit of the Entertainment Tax Act "payments for admission to an entertainment through direct-to-home (DTH) or through a cable television network with addressable system or otherwise". The Legislature has taken no such step concerning sponsorship amounts.

33.3 The insertion of Explanation 2 cannot expand the scope of the Entertainment Tax Act. This is so as Explanation 2 is merely an appendage to the provision, i.e., Section 2(m), without including a corresponding charging provision in the Entertainment Tax Act. [***S. Sundaram Pillai v. V.R. Pattabiraman***, (1985) 1 SCC 591; ***CIT v. Mohmed Juned Dadani***, (2013) 355 ITR 172].

33.4 The Entertainment Tax Act provides no mechanism to levy and collect tax on sponsorship receipts. Thus, in the absence of any procedural machinery for assessment and tax levy, Explanation 2 appended to Section 2(m) should be struck down as unconstitutional.

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33.5 Rule 11 of the 1997 Rules requires information for ticketed events to be provided in Form 5. Likewise, the same Rule casts an obligation on the person or society desirous of holding entertainment to provide information, *albeit* for non-ticketed events in Form 6. Significantly, Form 5 does not require disclosure of information concerning sponsored events.

33.6 GNCTD has arbitrarily and unreasonably sought to levy Entertainment Tax with retrospective effect, i.e., 01.04.1998, pursuant to the issuance of Notification dated 01.10.2012. The well-established principle of law is that it looks forward and not backward. The doctrine of "*Lex prospicit non respicit*" enunciates this principle. [See ***CIT v. Vatika Township (P) Ltd.***, (2015) 1 SCC 1].

33.7 Even if the Court were to hold that levy of Entertainment Tax on sponsorship amounts is constitutionally valid, it cannot be applied retrospectively since Explanation 2 appended to Section 2(m) introduces new and substantive law which, contrary to GNCTD's stand, is not clarificatory.

33.8 Although the Entertainment Tax Act was originally intended to tax individuals admitted to entertainment, its scope has been significantly altered to include sponsorship amounts. Thus, the inclusion of sponsorship amounts for taxability that could not have been contemplated by the assessees should render the amendment prospective. [See ***Union of India v. Martin Lottery Agencies Ltd.***, (2009) 12 SCC 209, and ***Vatika*** case].

33.9 A combined reading of Section 2(o) along with Sections 9 and 10 of the Entertainment Tax Act would reveal that proprietors are not required to

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gain or seek admission by holding a ticket in the prescribed form in which proper tax has been paid as per Section 6 of the Entertainment Tax Act. Sponsors, being proprietors within the meaning of provisions of Section 2(o), fall within the same regime, i.e., they would not require a ticket to gain admission for being admitted to any entertainment. It would be absurd if Entertainment Tax were imposed on sponsorship amounts made for organising entertainment events.

34. The expression "payment for admission", as found in Section 2(m), covers situations where payment is made by a person for seats or other accommodation in any form in a place of entertainment. FDCI organises fashion shows; there is neither a payment for seats nor for procuring accommodation. It is not a ticketed event. The invite is only sent to a defined set of persons involved in the fashion field or foreign buyers interested in Indian fashion and textiles. The unamended Entertainment Tax Act did not use the expression "sponsorship". The expression "sponsor" was only found in Form 6 under Rule 11 of the 1997 Rules. Furthermore, contrary to GNCTD's contention, the unamended Entertainment Tax Act did not envisage the imposition of tax on goods, services, or benefits received by the organisers as is sought to be done with the amendment brought about *via* Notification dated 01.10.2012.

35. Learned Counsel, on behalf of GNCTD, in rebuttal, made the following submissions:

35.1 The contention advanced on behalf of the writ petitioners that sponsorship was covered under the Service Tax Act with effect from 01.05.2006 to demonstrate that GNCTD had no competence to legislate on

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the issue and levy tax *qua* the same is not an aspect which is referred to this Court for decision. This Court is required to rule on the points of divergence between the Judges who were part of the Division Bench, as is reflected in the order dated 22.12.2017. Since this aspect was not urged before the Division Bench, the Judges involved did not express a view, so they did not need to come to a different conclusion.

35.2 The submissions advanced on behalf of GNCTD are recorded in paragraphs 23 to 31 of the judgment dated 22.12.2017.

35.3 Section 2(m)(i) defines the expression "payment for admission" as one which includes "any payment made by a person for seats or other accommodation in any form in a place of entertainment". The expressions "other accommodation in any form" and "in a place of entertainment" have a wide amplitude. Therefore, sponsorship amounts by the organisers/proprietors in lieu of accommodation provided for advertising products of sponsors would be amenable to tax. It is, therefore, clear that given the aforesaid construct, there is no requirement for a seat to be made available in the place of entertainment, much less have a ticketed entry for such seats.

35.4 The definition of the expression "payment for admission" in Section 2(m) of the Entertainment Tax Act is inclusive and not exhaustive. The width of this expression comes to the fore if one reads sub-Clause (iv) of Section 2(m). The said provision brings within its ambit "any payment, "by whatever name called", "for any purpose whatsoever", "connected with an entertainment", "which a person is required to make in any form as a condition of attending or continuing to attend the entertainment". This

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payment can either be in "addition to the payment, if any, for admission to entertainment or without any such payment for admission".

35.5 A perusal of the provisions of Section 2(m) along with the Explanation [which is renumbered as Explanation 1] in its unamended form, would reveal that even contribution collected in connection with entertainment accessed *via* invitation was deemed to be "payment for admission". Non-ticketed payment made in connection with entertainment [not necessarily for an entertainment show] was, even before the amendment, amenable to the imposition of Entertainment Tax. [See ***Royal Talkies v. ESI Corpn.***, (1978) 4 SCC 204 and ***Delhi Race Club Ltd. v. Govt. of NCT of Delhi***, (2012) 48 VST 483].

35.6 The unamended Section 2(m) read with the Explanation covered the following three categories of cases: exclusive ticketed entertainment events, non-ticketed entertainment events, and entertainment events where access was through tickets as well as invitations.

35.7 The Explanation [now Explanation 1] envisaged a situation where tickets were handed out at a reduced rate which would include zero rate.

35.8 The provision of Section 6(4) of the Entertainment Tax Act lends support to the aforesaid submission in that, where any person is admitted to an entertainment event, *albeit* without payment or at a concessional rate, whereas, in regular course, admission can be gained only on payment, then tax is levied on the amount ordinarily payable.

35.9 Section 6(6) contemplates payment for admission to entertainment which is wholly or partly made in lumpsum in the form of "subscription,

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contribution, donation or otherwise". The use of the expression "otherwise" indicates that payments made in kind through the supply of goods or rendering services are also susceptible to tax.

36. Thus, a conjoint reading of the provisions of Sections 2(m), 6(4), and 6(6) would show that the net has been cast wide to bring within the fold of the expression "payment for admission", the maximum number of transactions to prevent tax avoidance.

36.1 Sponsors cannot be organisers/proprietors under Section 2(o) of the Entertainment Tax Act. Therefore, the fee paid by sponsors in lieu of the right to participate would, undoubtedly, fall within the ambit of the expression "payment for admission" as appearing in Section 2(m). Since Section 2(m) is an inclusive definition, the Court should not curtail its reach. [See ***S.K. Gupta v. K.P. Jain***, (1979) 3 SCC 54, ***Geeta Enterprises v. State of U***P, (1983) 4 SCC 202, ***P. Kasilingam v. PSG College of Technology***, 1995 Supp (2) SCC 348, ***N.D.P. Namboodripad v. Union of India***, (2007) 4 SCC 502, ***Bharat Coop. Bank (Mumbai) Ltd. v. Employees Union***, (2007) 4 SCC 685, ***Hamdard (Wakf) Laboratories v. Dy. Labour Commr.***, (2007) 5 SCC 281, ***CTO v. Rajasthan Taxchem Ltd.***, (2007) 3 SCC 124].

36.2 The activity carried out by the writ petitioners constitutes "exhibition", which falls within the definition of "entertainment" as provided in Section 2(i) of the Entertainment Tax Act. The plain meaning of the word "exhibition" is "*a collection of things, for example, works of art that are shown to the public*". [See Oxford English Dictionary, 8th Edition]. Similarly, the meaning of "amusement" is a "*pleasurable occupation of the*

senses, or that which furnishes it, as dancing, sports or music". [***Geeta Enterprises*** case].

36.3 The contention of the writ petitioners that entertainment events for which access is gained by invitation would not come within the scope of the Entertainment Tax Act is untenable. [See ***Amit Kumar v. State of U***P, (2008) 1 SCC 528 and ***Geeta Enterprises*** case]. Insofar as FDCI is concerned, it cannot now contend that fashion shows organised by it do not constitute "entertainment" given the judgment of the Division Bench dated 30.04.2012 passed in WP (C) 1145/2010 and other connected matters titled '***Fashion Design Council of India v. GNCTD and Ors.***'. [See paragraph 15 of the judgment dated 30.04.2012].

36.4 Bhat J. has incorrectly distinguished the judgment of the Bombay High Court in ***Gem & Jewellery Export Promotion Council v. State of Maharashtra***, 2013 SCC OnLine Bom 372. The learned Judge overlooked that even a business promotion event can fall within the definition of "entertainment."

36.5 The argument that retrospective effect granted to Explanation 2 appended to Section 2(m) is violative of Article 14 is misconceived. Explanation 2 is clarificatory. Sponsorship receipts, even before the insertion of Explanation 2, came within the ambit of the Entertainment Tax Act. [See ***Sundaram Pillai*** case and ***Dipak Chandra Ruhidas v. Chandan Kumar Sarkar***, (2003) 7 SCC 66].

36.6 Declaratory statutes, including a clarificatory amendment, will necessarily have retrospective effect as it brings to the fore what is implicit

in the Act or the provision. [See ***Entertainment Tax Officer v. Ambae Picture Palace***, (1994) 1 SCC 209, ***CIT v. Gold Coin Health Food (P) Ltd.***, (2008) 9 SCC 622 and ***RC Tobacco (P) Ltd. v. Union of India***, (2005) 7 SCC 725, ***Star India (P) Ltd. v. CCE***, (2005) 7 SCC 203].

36.7 The period for which retrospectivity is accorded is of no consequence unless the levy acquires confiscatory attributes. [See ***Satnam Overseas (Export) v. State of Haryana***, (2003) 1 SCC 561].

36.8 The submission advanced on behalf of the writ petitioners that no charging provision is provided in the Entertainment Tax Act concerning sponsorship receipts is incorrect. A conjoint reading of sub-Sections (1), (4), (5), (6), and (7) of Section 6 would show that the charging section has been couched in the broadest possible terms to include all payments which could be lumpsum such as those made by way of "subscription, contribution, donation or even otherwise". Therefore, sponsorship receipts would stand included in the various forms and kinds of payment contemplated under Section 6 of the Entertainment Tax Act.

36.9 A closer look at Explanation 2 would show that it creates a deeming fiction by giving the expression "payment for admission" artificial meaning.

37. Given that the Legislature has created a legal fiction, the Court need not examine the true nature of sponsorship payments. The inquiry about whether sponsorship payments allow for admission to some persons *qua* an entertainment event has been obviated. In other words, Explanation 2 deems that a payment made by a sponsor is "payment for admission". This is a well-recognised methodology used by the Legislature. Therefore, the

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Legislature is competent to provide an artificial definition *qua* a taxable event. [See ***CCE v. SD. Fine Chemicals (P) Ltd.***, 1995 Supp (2) SCC 336 and ***Addl. ITO v. E. Alfred***, (1962) 44 ITR 442].

37.1 The submission advanced that the Entertainment Tax Act does not provide a mechanism for assessing and collecting tax on sponsorships is misconceived. The mechanism for assessment and collection of tax, both for ticketed and non-ticketed events, is referrable to Rule 11 read with Forms 5 and 6. While Form 5 relates to ticketed [including ticketed and non-ticketed] entertainment events, Form 6 refers to entertainment events where admission is granted exclusively by invitation.

37.2 Information concerning sponsors and the amount remitted by them is required to be indicated against serial no. 10 in Form 6. Likewise, the names of advertisers and the amount received from them require disclosure against serial no. 11 in Form 6. The purpose of seeking such information in Form 6 is to ascertain the exact sponsorship amount received by an organiser/proprietor so that it could be subjected to tax having regard to the provisions of Section 2(m) read with Section 6 of the Entertainment Tax Act. Serial no. 18 of Form 6 seeks information concerning the amount of arrears of tax, if any, concerning previous shows. This is, clearly, indicative of the fact that sponsorship receipts are exigible to tax. The fact that the heading of Form 6 does not explicitly state that the purpose of collecting the said information is for the imposition of tax on sponsorship receipts does not determine whether a tax is leviable. Therefore, the Entertainment Tax Act has express charging as well as machinery provisions concerning

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sponsorship amounts, even before the introduction of Explanation 2 to Section 2(m) of the Entertainment Tax Act.

38. Therefore, in the given facts and circumstances, this Court should sustain Sharma J's view.

VI. ANALYSIS AND REASONS

39. The four issues that have been culled out by the Division Bench for consideration boil down to the following heads, which require, in my view, consideration and deliberation. First, whether the Entertainment Tax Act always, i.e., even before the amendment, intended to impose a tax on sponsorship receipts. Because if I conclude that it was always embedded in the Entertainment Tax Act, then necessarily, to my mind, the impugned Explanation 2 appended to Section 2(m) of the Entertainment Tax Act would be clarificatory and would have to be given retrospective effect. This would also answer the specific objection raised by the writ petitioners that there is no charging provision and hence, the attempt to impose Entertainment Tax should fail.

40. Second, even if one were to conclude that Section 6, read in its entirety, included sponsorship receipts as one of the modes of payment for admission to an entertainment event, would the imposition of Entertainment Tax fail in the absence of an assessment and collection mechanism *qua* such receipts.

41. There can also be no cavil concerning the proposition that for a valid tax to be levied, it should have the following attributes:

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i) First, the subject statute should advert to the taxable event, i.e., the event that attracts the levy.

ii) Second, the statute should unambiguously identify the person on whom tax is imposed and who is obliged to remit the tax.

iii) Third, the rate at which tax would be imposed.

iv) Fourth, the measure, i.e., the value to which the tax rate would be applied to compute the tax. [See ***Govind Saran Ganga Saran v. CST***, 1985 Supp SCC 205].

42. The uncontested position is that Section 6 of the Entertainment Tax Act is the charging provision. There is also no dispute that sub-Section (1) of Section 6 gives a clue as to the nature of the tax, i.e., the taxable event. Thus, the expression "payments for admission to any entertainment" characterises what would be a taxable event for levy of Entertainment tax, save and except those services referred to in Section 7 which are accessed for entertainment. Section 7, amongst other things, refers to cable network, video, and DTH services.

43. Furthermore, to obtain a clue as to what the expression "payment for admission" could mean in the context of sponsorship receipts, one would have to take recourse to sub-Clauses (i) and (iv) of Clause (m) of Section 2, read along with Explanations 1 and 2. For convenience, the provisions are extracted hereafter:

> "*(m) "payment for admission" includes—*
>
> *(i) any payment made by a person for seats or other accommodation in any form in a place of entertainment;*

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... ...

(iv) any payment, by whatever name called for any purpose whatsoever, connected with an entertainment, which a person is required to make in any form as a condition of attending, or continuing to attend the entertainment, either in addition to the payment, if any, for admission to the entertainment or without any such payment for admission;

... ...

[Explanation 1: Any subscription raised, contribution received or donation collected in connection with an entertainment, where admission is partly or entirely by tickets/invitation specifying the amount of admission or reduced rate of ticket shall be deemed to be payment for admission;

Explanation 2: Any sponsorship amount paid or value of goods supplied or services rendered or benefits provided to the organiser of an entertainment programme in lieu of advertisement of sponsor's product/brand name or otherwise shall be deemed to be payment for admission;]"

44. Reference has also been made by Counsel [specially Counsel for GNCTD] to sub-sections (1), (4), (5), (6), and (7) of Section 6 and Sections 9 and 10. For convenience, the said provisions are extracted hereafter:

"*6.* ***Tax on payment for admission to entertainment***

(1) Subject to the provisions of this Act, there shall be levied and paid on all payments for admission to any entertainment, other than an entertainment to which section 7 applies, an Entertainment Tax at such rate not exceeding one hundred per cent of each such payment as the Government may from time to time notify in this behalf, and the tax shall be collected by the proprietor from the person making the payment for admission and paid to the Government in the manner prescribed.

... ...

(4) If in any entertainment, referred to in sub-section (1), to which admission is generally on payment, any person is admitted free of charge or on a concessional rate, the same amount of tax shall be payable as if such person was admitted on full payment.

(5) Where the admission to a place of entertainment is generally on payment, and if any entertainment is held in lieu of the regular entertainment programme without payment of admission or with payment of admission less than what would have been paid in the normal course, the proprietor shall be liable to pay tax

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which would have been payable in a normal course at full house capacity or the tax for the programme held in lieu of the regular entertainment programme, whichever is higher.

(6) Where the payment for admission to an entertainment, referred to in sub-section (1), is made wholly or partly, by means of a lump sum paid as subscription, contribution, donation or otherwise, the tax shall be paid on the amount of such lump sum and on the amount of payment for admission, if any, made otherwise.

(7) Where in a hotel or a restaurant, or a club, entertainment is provided by way of cabarets, floor shows, or entertainment is organised on special occasion along with any meal or refreshment with a view to attract customers, the same shall be taxed at a rate to be notified under sub-section (1).

*9.**Restriction of admission***

Save as otherwise expressly provided by or under this Act, no person (other than a person who has some specific duty to perform in connection with the entertainment, or duty imposed upon him by law, or a person authorised by the Government in this behalf) shall be admitted to any entertainment except with a ticket in the prescribed form denoting that the proper tax payable under section 6 has been paid.

*10.**Restriction on entry to entertainment***

No person (other than a person who has some specific duty to perform in connection with the entertainment, or duty imposed upon him by law, or a person authorised by the Government in this behalf) shall enter or obtain admission to an entertainment without being in possession of a proper ticket as required under section 9."

45. A careful perusal of Section 2(m) of the Entertainment Tax Act would show that it is an inclusive definition and adverts to payments made by a person to gain access to either the seats or other accommodation in any form made available in a place of entertainment or payments made to gain access to entertainment or even payments made in connection with entertainment as a condition for attending or continuing to attend the entertainment event. The modes of payment are illustrative as the definition is inclusive and not exhaustive. Therefore, a circumstance where a person gets physical access to a place of entertainment by paying money for seats or accommodation

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provided therein is an aspect covered in sub-Clause (i) of Clause (m) of Section 2.

45.1 Payment for a mode of entertainment not bound by any specific physical space is covered by sub-Clause (ii) of the same Section. Thus, a person could seek to get entertained by paying money, say by booking seats or accommodation in a place of entertainment which would be accessible by the public at large; the same person could also get entertained by making payment for availing cable network services. [See Section 2(m)(i) and ii)].

46. Section 2(m), as noticed above, also seeks to cast the taxation net wide by including any and every kind of payment irrespective of the purpose as long as it is "connected with an entertainment" event and that such payment forms a "condition of attending, or continuing to attend" the said event. [See 2(m)(iv)].

46.1 Clauses (iii) and (v) of Section 2(m) take into account specific situations such as payment made towards a "loan or use of any instrument or contrivance" to enable "a person to get a normal or better view or hearing or enjoyment of entertainment" without which she/he would be deprived of the same; or payment made by a person "who having been admitted to one part of a place of entertainment is subsequently admitted to another part".

46.2 Similarly, payments made in the form of "contribution, subscription" towards "installation or connection charges" or any other charges for entertainment through DTH, broadcasting service, for distribution of television signals, and value added services connected to a television set or a

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computer system, directly through a satellite or otherwise, are also brought within the ambit of the expression "payment for admission".

47. Although for the purposes of this case, we are concerned only with sub-Clauses (i) and (iv) of Section 2(m), I have referred to them for completeness and to give an idea as to the vast reach of the definition contained in Section 2(m) of the Entertainment Tax Act.

48. The width of the provision even before its amendment was wide, something which is evident upon a plain reading of the Explanation [now Explanation 1]. Therefore, even before the amendment, any "subscription raised, contribution received, or donation collected in connection" with entertainment, "where admission" was "partly or entirely by" tickets or invitation, "specifying the amount of admission or reduced rate of" the ticket, was deemed as "payment for admission".

49. Undoubtedly, Section 2(m)'s width and amplitude are broad. That said, it is certainly not exhaustive. It not only includes payments which have a direct nexus to the entertainment event, but also those connected with entertainment. However, what must be borne in mind is that whatever the width of Section 2(m) of the Entertainment Tax Act may be, it cannot include any and every payment. Perhaps one would have to cite an extreme example to test the proposition. For instance, repayment of a loan simpliciter taken to set up or repair the place of entertainment may not come within the ambit of the definition. Even though sub-Clause (iv) of Section 2(m) seeks to bring within the ambit of Entertainment Tax any payment which is connected with entertainment, irrespective of the purpose, one cannot lose sight that even such payment should be a "condition of attending, or

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continuing to attend entertainment". Sponsorship amounts, thus, cannot be construed as "payment for admission" as these are amounts that are paid not for being entertained, [much less for attending or continuing to attend entertainment] but in lieu of the right to advertise products, brands, logos etcetera, while the entertainment activity is on. Furtherance of business interest is at the heart of a sponsorship.

50. The argument advanced on behalf of GNCTD that the expression payment made for other accommodation in a place of entertainment [as captured in Section 2(m)(i)] would include a place allocated for advertising a sponsor's product, papers over the fact that that the expression "other accommodation" is placed alongside the expression "seats" and therefore, should, in a certain sense, take colour from the said expression. If one were to take recourse to the literal meaning of the word "accommodation", to my mind, it would lead to absurdity and, therefore, cannot be accorded the meaning that GNCTD seeks to place on the said expression. The maxim *noscitur a sociis* would, in my opinion, apply. The word "accommodation", which follows the word "seat", should be used in a cognate sense. Otherwise, it would give unintended width to the provision and, consequently, the statute. [See ***Godfrey Phillips India Ltd. v. State of UP***, (2005) 2 SCC 515, ***Ahmedabad (P) Primary Teachers' Assn. v. Administrative Officer***, (2004) 1 SCC 755 and ***Pardeep Aggarbatti v. State of Punjab***, (1997) 8 SCC 511].

50.1 The Legislature, noticing this gap in the statute, took measures [as it turned out, half-measures] to address this lacuna in the Entertainment Tax Act by inserting Explanation 2 *via* Notification dated 01.10.2012.

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50.2 *Via* Notification dated 01.10.2012, "[a]ny sponsorship amount paid or value of goods supplied or services rendered or benefits provided to the organiser of an entertainment in lieu of the sponsor's product/brand name or otherwise" was deemed "payment for admission". Through this insertion, the Legislature introduced a new element in the "payment for admission" definition clause, as found in Section 2(m), without making corresponding changes in the charging section. Thus, quite clearly, sponsorships, whether in the form of money, "value of goods supplied or services rendered or benefits provided to an organiser of an entertainment programme in lieu of" the sponsors' right to advertise products, undertake branding was not, contrary to the argument advanced on behalf of GNCTD, implicitly embedded in the unamended provision.

50.3 Explanation 2 brought within the sway of the expression "payment for admission" a new mode of payment agnostic to whether or not the sponsor or their representative could attend or continue to attend the entertainment event. As alluded to above, the main focus of the person sponsoring the event is to advance their business interests. Whether their representative could attend or continue to attend the entertainment event would make no difference to a sponsor.

51. Therefore, the contention put forth on behalf of GNCTD that Explanation 2 appended to Section 2(m) was clarificatory, which is why it was triggered retrospectively, in my view, has no merit.

52. Even if I were to hold that the unamended Entertainment Tax Act always envisaged imposition of tax on sponsorship receipts given the wide ambit of Section 2(m), it would not suffice as the charging provision, i.e.,

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Section 6(1) of the Entertainment Tax Act remained unamended after 01.10.2012.

52.1 That there was a need to amend the charging provision along with attendant provisions, including the definition provisions, is discernible from a bare reading of the statute, i.e., the Entertainment Tax Act. A quick perusal of the unamended Entertainment Tax Act would reveal that access to entertainment through modes such as DTH, video service, and cable television networks was not covered. Because the Legislature was desirous of bringing these services within the fold of the Entertainment Tax Act, it chose to amend the statute. Consequently, Section 7 was inserted by Amendment Act, 2009 on 05.01.2010, *albeit*, with effect from 01.02.2010. The relevant part of Section 7 is extracted hereafter:

> "*[Tax on cable, video service and direct-to-home (DTH) service]*
>
> *[(1) Subject to the provisions of this Act, there shall be levied and paid an Entertainment Tax on all payments for admission to an entertainment through a direct-to-home (DTH) or through a cable television network with addressable system or otherwise, other than entertainment to which section 6 applies, at such rates not exceeding rupees six hundred for every subscriber for every year as the Government may, from time to time, notify in this behalf, which shall be collected by the proprietor and paid to the Government in the manner prescribed.]*"

52.2 Alongside Section 7, amendments were made to Section 2 with the insertion of Clauses (a), (aa), (c), (fa), (fb), (ha), (ka), (pa), (pb) and (s). These Clauses define "addressable system", "admission to an entertainment", "assessing authority", "broadcaster", "cable operator", "direct-to-home (DTH) service", "multi-system operator (MSO)", "set top box", "service provider", and "subscriber" respectively.

52.3 Furthermore, the amendment added sub-Clauses to Section 2(m) and 2(o). *Via* Section 2(m)(vi), "any payment made by a person by way of contribution, subscription, installation or connection charges or any other charges collected in any manner whatsoever for entertainment through direct-to-home (DTH) broadcasting service for the distribution of television signals and value added services with the aid of any type of addressable system, which connects a television set, computer system at a residential or non-residential place of subscriber's premises, directly to the satellite or otherwise" was brought within the ambit of "payment for admission".

52.4 Through Section 2(o)(iv), the expression "proprietor" in relation to entertainment was expanded to include any person "having a licence to provide direct-to-home (DTH) service by the Central Government under section 4 of the Indian Telegraph Act, 1885" "and the Indian Wireless Telegraphy Act, 1933", and to "also include a service provider of cable television signals and value added services, registered or licensed under the Cable Television Network (Regulation) Act, 1995".

52.5 Admittedly, no such attempt was made when Explanation 2 was inserted *via* Notification dated 01.10.2012. Therefore, as rightly argued on behalf of the writ petitioners, tax on sponsorship receipts would fail as neither has the charging section [i.e., Section 6] been amended, nor has a new Section been inserted like in the case of other services such as DTH service, cable network, and video services.

53. Explanation 2, at best, is to be construed as a measure, i.e., a value to which the tax rate could be applied. But it certainly cannot be a substitute for the provision the Legislature had to make concerning sponsorship to bring it

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within the ambit of Entertainment Tax by incorporating necessary changes in the existing charging provision, i.e., Section 6, or by introducing a new provision as was done for DTH, video service, and cable TV network.

54. In a taxing statute, necessarily, there has to be a linkage between the measure of tax and the taxable event, i.e., the charging provision. Suppose the provision concerning the tax measure cannot be applied to the taxable event. In that case, it can be safely concluded that such event, in this case, sponsorship amounts, were not intended to be taxed by the Legislature. In other words, the Legislature was required to make an amendment not only in the definition provision, i.e., Section 2(m) [although carried out *via* Explanation 2], but also necessary amendments in the charging provision. In this context, the following observations made in ***CIT v. BC. Srinivasa Setty***, (1981) 2 SCC 460, being apposite, are extracted hereafter:

> "*The character of the computation provisions in each case bears a relationship to the nature of the charge. Thus, the charging section and the computation provisions together constitute an integrated code.* ***When there is a case to which computation provisions cannot apply at all, it is evident that such a case was not intended to fall within the charging section.***"
>
> [Emphasis is ours]

55. Therefore, in my view, the writ actions should succeed on the lone ground that the Legislature did not carry out necessary amendments to bring sponsorship amounts within the remit of the Entertainment Tax Act.

56. The impugned Notification dated 01.10.2012, which amended the Entertainment Tax Act by adding Explanation 2 to Section 2(m), is, in my view, even otherwise arbitrary and unreasonable as it came into effect on 01.04.1998. It is important to point out that the unamended Act, which is an

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Act of 1996, was first brought into force under the Delhi Act 8 of 1997 on 08.10.1997.

56.1 While there can be no quarrel with the proposition that a Legislature, if otherwise competent, is entitled to trigger a valid law retrospectively- this proposition is subject to a caveat. The caveat is that Courts while examining the legal tenability of such statute, can delve into its features to ascertain whether it is arbitrary, unreasonable, and burdensome. Although the Legislature, if otherwise competent, is entitled to legislate on the quantum of tax to be levied and recovered, as also the conditions which ought to apply, the unreasonableness, the arbitrariness, and the harshness may come to the fore in a given set of circumstances. While the fact that retrospectivity spans over a longish period cannot alone be a determinative factor as regards its validity, it certainly forms part of the judicial review that the Court undertakes. The basis for such an approach is that retrospective laws are contrary to the general principle that persons are entitled to arrange their affairs based on the existing state of law and, therefore, past transactions which were otherwise valid, ought not to be brought within the rigour of the law. A statute enacted by the Legislature is, ordinarily, prospective. As alluded to above, it can be given a retrospective effect where the Legislature does so by use of express words or by necessary implication. [See ***Rai Ramkrishna v. State of Bihar***, 1963 SCC OnLine 31; and ***Zile Singh v. State of Haryana***, (2004) 8 SCC 1].

57. In this particular case, since I have concluded that Explanation 2 was not clarificatory, imposition of Entertainment Tax on goods supplied, services rendered, and amounts paid by sponsors, that too since 01.04.1998

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[almost the date when Entertainment Tax Act was first brought into force], for which no provision was made, by the organisers/proprietors, would indeed, be burdensome and onerous. This is especially so when seen against the backdrop of the admitted fact that entities such as FDCI were given a 100% exemption from tax levy from 2002-2007, while for 2008-2009, the exemption was 50%.

58. FDCI, which organised fashion shows for the benefit of industry members, received sponsorships to enable sponsors to advertise their products, brands, and logos. Likewise, GMR Sports, Den Soccer, Sportify, and BCCI received amounts from sponsors for the right to advertise their goods, products, brands, and logos at sporting events.

58.1 Fashion shows are events that designers ordinarily organise to showcase their upcoming clothing and/or accessories to create interest in the buyers. A common-sense approach would have me hold that fashion shows are not entertainment events. However, even if one were to accept the argument advanced on behalf of GNCTD, that fashion shows are entertainment events, an argument which is founded on the judgment dated 30.04.2012 passed by the Division Bench in FDCI's case and the observations made by the Supreme Court in the ***Amit Kumar*** case, sponsorship amounts made over to FDCI, i.e., the organiser would not certainly come within the ambit of the Entertainment Tax Act as the purpose and the motivation for sponsoring these events was only to further their business interest. This would be true of other organisers/writ petitioners referred to above.

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59. In common parlance, and in the context of the present case, sponsorship would mean "*the act of providing money for a television or radio programme, website, sports event, or other activity in exchange for advertising:*"[1].

60. Therefore, sponsorships received by the writ petitioners, as indicated above, cannot be construed as payment for admission connected with an entertainment event which is required to be made, "in any form", "as a condition of attending or continuing to attend the event". [Section 2(m)(iv)].

61. In my view, the imposition of Entertainment Tax would also fail as no separate machinery has been put in place to assess and collect tax on sponsorships. Rule 11 of the 1997 Rules, *inter alia*, prescribes two (2) Forms for ticketed and non-ticketed entertainment events. Form 5 requires persons/societies desirous of holding an entertainment to provide, amongst other things, details concerning the charge levied [exclusive of tax] for admission to various classes, the quantum of Entertainment Tax and surcharge, and finally, the total amount payable by an entrant to the subject entertainment event. [See Serial no. 8 of Form 5].

61.1 Furthermore, in Form 5, the organisers are also required to give details concerning the following: number of seats in each class, starting serial number of each kind of ticket for each class for each show, total number of each kind of tickets printed for each class for each show and maximum amount of tax, including surcharge payable for seven (7) days

[1] See Cambridge Dictionary, https://dictionary.cambridge.org/dictionary/english/sponsorship.

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based on full seating capacity for the maximum number of shows proposed to be held in the week. [See Serial no. 10 to 13 of Form 5].

61.2 Besides this, against serial number 18, names and complete addresses of two (2) persons to whom the proprietor is known and to whom reference could be made in case it becomes necessary is to be provided. Form 5 does not make any reference to "sponsors" or "sponsorships". In my opinion, since sponsorships were not intended to be brought within the ambit of the Entertainment Tax Act, despite the definition of proprietor under Section 2(o)(i) being inclusive and, in that sense, bringing within its scope any person connected with the organisation of entertainment, as against promoting his or her business interest at the entertainment event, no information under Form 5 concerning sponsorships is sought.

61.3 In contrast, Form 6 seeks information on sponsors of non-ticketed events in which admission to entertainment is exclusively *via* invitation. Among other things, the information sought from the persons who own or manage such events concerning sponsors are the following: i) names of the sponsors; ii) the amount sponsored by them; and iii) name of advertiser and amount received from them. [See serial no. 10 and 11 of Form 6].

61.4 Coupled with the above, based on the information sought against serial number 18 in Form 6 concerning arrears of tax, if any, to be deposited in respect of shows previously held, it is urged on behalf of GNCTD that the Legislature always intended to impose tax on sponsorship receipts.

61.5 In my view, this is a misreading of both Rule 11 and Form 6. The information against serial number 18, particularly, and other serial numbers,

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seeks to take care of a situation where the same organisers hold ticketed and non-ticketed events. As noticed above, some writ petitioners such as GMR Sports, Den Soccer, and Sportify issue tickets and complimentary passes. Concededly, both on tickets and complimentary passes, Entertainment Tax is imposed, collected, and made over to GNCTD. These entities also receive sponsorships, the details of which are required to be disclosed. However, it cannot be construed that because information regarding sponsors and advertisers is required to be disclosed, sponsorship receipts attracted Entertainment Tax and information sought against serial number 18 related to the same, notwithstanding the heading of Form 6. As is well established, 'headings' do not control the plain provisions of a statute/rule, especially when the enactment is unambiguous. [See ***Tata Power Co. Ltd. v. Reliance Energy Ltd.***, (2009) 16 SCC 659].

VII. CONCLUSION

62. In conclusion, my answer to the four (4) issues referred for consideration is as follows:

(i) The unamended Section 2(m) of the Entertainment Tax Act did not cover sponsorship of fashion shows and sporting events so as to make it amenable to tax under Section 6.

(ii) The addition of Explanation 2 to Section 2(m) with retrospective effect *via* Notification dated 01.10.2012 was arbitrary, harsh, and unreasonable and hence, violated Article 14 of the Constitution. In other words, the 2012 amendment was not clarificatory, as GNCTD contended.

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(iii) The imposition of a tax on sponsorship under the Entertainment Tax Act must fail in the absence of a specific charging provision.

(iv) The Entertainment Tax Act does not contain a mechanism for assessing and collecting tax on sponsorships.

63. For the foregoing reasons, I am inclined to allow the writ petitions. Resultantly, in addition to the above, the reliefs granted by Bhat J. in paragraphs 82 (4) and (5) of the judgment are sustained. There shall, however, be no order as to costs.

(RAJIV SHAKDHER)
JUDGE

AUGUST 05, 2024

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