

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

Reserved on: 29th March, 2012

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Date of Decision: 30th April, 2012

+ **W.P.(C) 1145/2010**
+ **W.P.(C) 3199/2011**
+ **W.P.(C) 3200/2011**
+ **W.P.(C) 3201/2011**
+ **W.P.(C) 6564/2011**
+ **W.P.(C) 7505/2011**
+ **W.P.(C) 7506/2011**

FASHION DESIGN COUNCIL OF INDIA Petitioner

Through: Mr. Neeraj K. Kaul, Sr. Adv. with
Mr. Jitendra Singh, Mr. Rajiv
Bansal, Mr. Saurabh S. Sinha and
Ms. Swati and Mr. Rahul, Advs.

versus

GNCT AND ORS. Respondents

Through: Mr. Parag P. Tripathi, Sr. Adv.
with Ms. Avanish Ahlavat, Ms.
Monisha Handa, Ms. Shubham
Mahajn and Ms. Urvashi
Malhotra, Advs.

+ **W.P.(C) 1169/2010**
+ **W.P.(C) 4728/2010**

FASHION DESIGN COUNCIL OF INDIA Petitioner

Through: Mr. Neeraj K. Kaul, Sr. Adv. with
Mr. Jitendra Singh, Mr. Rajiv

Bansal, Mr. Saurabh S. Sinha and
Ms. Swati and Mr. Rahul, Advs.

versus

COMMISSIONER OF EXCISE ENTERTAINMENT AND
LUXURY TAX Respondents

Through: Mr. Parag P. Tripathi, Sr. Adv.
with Ms. Avanish Ahlavat, Ms.
Monisha Handa, Ms. Shubham
Mahajn and Ms. Urvashi
Malhotra, Advs.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE R.V. EASWAR

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not ? Yes
3. Whether the judgment should be reported in the Digest? Yes

R.V. EASWAR, J.:

These are nine connected writ petitions filed by Fashion Design Council of India (hereinafter referred to as “petitioner”) under Article 226 and 227 of the Constitution of India. The matter pertains to the Delhi Entertainment and Betting Tax Act, 1996 (Delhi Act No.8 of 1997) (hereinafter referred to as ‘Act’).

2. Writ Petition No.1145/2010 is taken as a lead matter since the facts in all these writ petitions are somewhat common. The petitioner is a society registered under the Societies Registration Act, 1860, established

solely for the purpose of promoting and fostering the growth and development of the Indian Fashion industry. It organizes the India Fashion week, business-to-business interaction events and other Fashion shows. It is claimed that these are not ticketed events and that entry to the Fashion shows/ Fashion weeks is exclusively by invitation, both for domestic and international buyers, associated professionals and media. It was granted 100% exemption from the liability to pay entertainment tax under the Act in respect of the events held from the year 2002 to the year 2004; the exemption was reduced to 50% in respect of the events held in the years 2008 and 2009. Thereafter the Government of NCT, Delhi refused the grant of exemption from entertainment tax for all subsequent Fashion events conducted or organized by the petitioner.

3. The petitioner applied for exemption from payment of entertainment tax under Section 14 of the Act regarding Fashion weeks organized by it for the periods from 18.03.2009 to 23.03.2009 and from 15.10.2008 to 19.10.2008 in Delhi. Under Section 14 of the Act the exemption is to be granted by the government having regard to the criteria mentioned in the various sub-sections of the Section. By order dated 10.09.2009, which is impugned in the writ petition, the Joint Secretary (Finance), acting for the Government of NCT of Delhi, rejected the request of the petitioner for 100% exemption from entertainment tax on Fashion shows. However, considering the recession in the industrial and export sector and to project Delhi as a world class city, exemption was granted from payment of

entertainment tax to the extent of 50% of the tax payable by the petitioner, “as a special case”. This exemption was granted in respect of the Fashion shows which were held between 15.10.2008 and 19.10.2008 and between 18.03.2009 and 23.03.2009 and also in respect of the Van Heusen India Men’s Fashion Week to be held from 11th to 13th September, 2009. It was clarified that the exemption was not being extended to future events planned by the petitioner.

4. Before the aforesaid order granting 50% exemption from entertainment tax was passed, the Additional Entertainment Tax Officer (AETO) had passed two assessment orders on 11.06.2009, one in respect of the Fashion show organized between 15.10.2008 and 19.10.2008 and another in respect of the Fashion show organized between 18.03.2009 and 23.03.2009. It would appear that before these assessment orders were passed the assessee had approached this Court through writ petitions for issue of ‘no objection certificates’ for holding the events subject to deposit of monies. The AETO referred to orders passed by this Court in those writ petitions and thereafter proceeded to examine the details furnished by the petitioner in order to ascertain whether there was any liability to pay entertainment tax under the Act. A perusal of the assessment orders shows that the principal contentions raised by the petitioners before the AETO were these. The first contention was that the Fashion show was not an “entertainment” under the Act. This contention was rejected by the AETO who held that it is an exhibition of designs and clothing and would also

amount to a performance by the models on the ramp and thus the Fashion show amounts to an “entertainment”. The other contention raised by the petitioner was that the sponsorship amount received in respect of the Wills Lifestyle India Fashion Week was not “payment for admission to the entertainment” and therefore not chargeable to entertainment tax. This contention was also rejected by the AETO, relying upon the inclusive definition of the term “payment for admission” in Section 2 (m) of the Act. According to him under Section 2 (m) (i), any payment made by a person for seats or other accommodation in any form in a place of entertainment was chargeable to entertainment tax. He also referred to definition of the term “admission to entertainment ” in Section 2 (a) of the Act. According to him Section 2 (m) (i) read with Section 2 (a) of the Act covered the case of the petitioner and therefore it was liable to pay entertainment tax in respect of the Fashion show. The AETO also referred to and relied upon sub-sections (1) and (6) of Section 6 of the Act. Sub-section (1) of Section 6 is the charging Section, which charges tax on an entertainment. Sub-section (6) says that where the payment for admission to an entertainment is made wholly or partly by means of a lump sum paid as subscription, contribution, donation or otherwise, the entertainment tax shall be paid on the amount of the lump sum and on the amount of payment made for admission, if any, made otherwise. These two sub-sections were also relied upon by the AETO to assess the sponsorship amount received by the petitioner to entertainment tax. Ultimately, he brought the following sponsorship amounts to tax under the Act, observing as under: -

<u>"Particulars"</u>	<u>Amount</u>
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ITC Ltd.	25500000.00
Essenza D'Wills	13500000.00
Pernord Ricard India (P) Ltd.	3000000.00
Audi India	3000000.00
HP	4500000.00
Redbull India Pvt. Ltd.	<u>500000.00</u>
Total	<u>50000000.00</u>

The Entertainment Tax on the above sponsorship money is calculated @ 15% on Rs.5.00 crores which comes to Rs.75 lacs. Since, the Applicant has paid Rs.36.9 lacs, the tax yet to be deposited by the Applicant is Rs.3810000.00 as under:

Amount of Sponsorship	Total Assessed (In Rupees)	D.D. furnished by the Applicant (In Rupees)	Balance Tax to be deposited by the Applicant (In Rupees)
50000000.00	7500000.00	3690000.00	3810000.00

The Applicant is directed to pay the said amount of Rs.3810000.00 (Rupees thirty eight lacs ten thousand only) within a period of 15 days from the date of receipt of this order.

(A.K. Gupta)

ADDL. ENTERTAINMENT TAX OFFICER"

5. Similar order was passed on the same day (i.e. 11.06.2009) in respect of the Fashion show held between 18.03.2009 and 23.03.2009. The

sponsorship money of ₹5,79,76,138/- received by the petitioner was taxed @ 15% which came to ₹86,96,421/-. The amount assessed as entertainment tax by the aforesaid orders, both passed on 11.06.2009, were directed to be paid by the petitioner within 15 days from the date of receipt of the orders.

6. The petitioner has prayed for issue of a writ of certiorari or any other appropriate writ, order or direction quashing the assessment orders passed by the AETO on 11.06.2009 and the order passed by the Government of NCT of Delhi on 10.09.2009.

7. Two contentions have been put forward before us on behalf of the petitioner. The first contention is based on the powers of delegation given under Section 4 of the Act to the government. According to Section 2 (j), “Government” means the Government of the National Capital Territory of Delhi. Section 4 is couched in the following words: -

“4. Delegation

(1) The government may, by notification, delegate all or any of its powers under this Act, except those under sections 3, 6, 7 and 45 to any person or authority subordinate to it.

(2) The exercise of any powers delegated under sub-section (1) shall be subject to such restrictions, limitations or conditions as may be laid down by the government from time to time and shall also be subject to control and revision by government at any time.”

8. Section 6 is the charging section and it provides for levy of entertainment tax in respect of all payments for admission to any entertainment, other than an entertainment to which Section 7 applies, at such rate not exceeding 100% of the payment as the government may notify from time to time. The sub-section further says that the tax shall be collected by the proprietor of the entertainment from the person making the payment for admission and paid to the government in the prescribed manner. We are not referring to Sections 3, 7 and 45 as they are not relevant in dealing with the argument. The argument of the petitioner is that the power to levy entertainment tax cannot be delegated by the government to any other person or authority subordinate to it and, therefore, the assessment orders passed by the AETO on 11.06.2009 have to be struck down as being without the authority of law. The fallacy in this argument, if we may say so with respect, is that it fails to take note of the distinction between levy or charge of the tax, the quantification thereof in the assessment and recovery/ collection of the tax. There is a well-marked distinction between the levy or charge of the tax on the one hand and the assessment or quantification thereof, on the other. In the context of similar provisions under the Income Tax Act, this distinction has been brought out in several decisions, which we may briefly note.

9. In *Wallace Bros. & Co. Ltd. v. CIT*, (1948) 16 ITR 240 the Privy Council observed thus: -

“The rate of tax for the year of assessment may be fixed after the close of the previous order and the assessment will necessarily be made after the close of that order. But the liability to tax arises by virtue of the charging section alone, and it arises not later than the close of the previous year, though quantification of the amount payable is postponed.”

(underlining ours)

10. In ***Chatturam v. CIT, Bihar*** (1947) 15 ITR 302, the Federal Court, quoting from the judgment of Lord Dunedin in ***Whitney v. Commissioners of Inland Revenue*** (1926) A.C. 37, brought out the distinction between different stages in the imposition of a tax in the following words: -

“There are three stages in the imposition of a tax: There is the declaration of liability, that is the part of the statute which determines what persons in respect of what property are liable. Next, there is the assessment. Liability does not depend on assessment. That, ex-hypothesi, has already been fixed. But assessment particularises the exact sum which a person liable has to pay. Lastly, come the methods of recovery, if the person taxed does not voluntarily pay.”

(underlining ours)

11. These observations of the Federal Court were adopted by the Supreme Court in ***Neptune Assurance Company Ltd. v. LIC of India***, (1963) 48 ITR 144. In this decision it was observed that the assessment only particularised the amount of tax payable as per the rates fixed by the Finance Act and that it did not create a right to refund for the first time since that right had already come into existence as soon as according to the

relative Finance Act it became ascertainable that the tax paid in advance had exceeded the tax payable.

12. In ***K.S.Venkataraman & Co. v. State of Madras***, (1966) 60 ITR 112 the Supreme Court pithily observed as under: -

“Let us now scrutinize the said machinery to ascertain its scope and ambit. Section 3 of the Income-tax Act is the charging section; it imposes a tax upon a person in respect of his income. As a learned author pithily puts it, “section 3 charges total income; section 4 defines its range; section 6 qualifies it; and sections 7 to 12B quantify it.”

13. In ***Ahmed Ibrahim Sahigra Dhoraji v. CWT***, (1981) 129 ITR 314, the Supreme Court summed up the position in the following manner: -

“Section 3 of the Indian I.T. Act, 1922 and s. 4 of the I.T. Act, 1961, which are couched more or less in the same language state that where any Central Act enacts that income-tax shall be charged for any year at any rate or rates, income-tax at that rate or those rates shall be charged for that year in accordance with and subject to the provisions of the relevant Act in respect of the total income of the previous year or previous years, as the case may be, of every person. Now it is well settled by a series of judicial decisions that the liability to income-tax arises by virtue of the charging section in the relevant I.T. Act and it arises not later than the close of the previous year, even though the rate of tax for the year of assessment may be fixed after the close of the previous year and the assessment has necessarily to be made after the previous year.

The quality of chargeability of any income to tax is not dependent upon the passing of the Finance Act though its

quantification may be governed by the provisions of the Finance Act in respect of any assessment year (vide Wallace Brothers and Co. Ltd. v. CIT [1948] 16 ITR 240 (PC), Chaturam Horilram Ltd. v. CIT [1955] 27 ITR 709; [1955] 2 SCR 290 AND Kalwa Devadattam v. Union of India [1963] 49 ITR (SC) 165; [1964] 3 SCR 191.)”
(underlining ours)

The aforesaid decisions bring out the distinction between the charging Section and the other provisions relating to the quantification of the income and the tax payable thereon by way of an assessment order and the provisions relating to collection or recovery of the income tax.

14. All tax legislation, whether Central or State, generally contain similar provisions relating to the charge of the tax and the quantification thereof. They also contain separate provisions for recovery or collection. The charging section does not require a separate order by any authority to charge the tax. It stands by itself and is triggered the moment the taxable event takes place. In the case of income tax, the taxable event is the earning of income. In the case of sales tax, the taxable event is the sale. In the case of excise duty the dutiable event is the manufacture of goods. In the case of income tax, the annual Finance Acts prescribe the rates of tax. However, the computation of the income has to take place separately by an order of assessment. These orders have to be passed by the officers executing the Income Tax Act. They merely give effect to the charge of the tax. If these principles are borne in mind it will be clear that Section 4(1) of the Act with which we are concerned cannot, in the very nature of

things, enable the government to delegate its powers under Section 6. Despite the section, it is impossible to conceive of a delegation of the charge of tax because, as already pointed out, the charge is created by the statutory provision itself and it does not require any separate agency or order to create it. It is only to quantify the charge of tax that an order may have to be passed. It may be that Section 4(1) of the Act, when it also refers to Section 6, amongst other sections, was quite redundant but that is no reason to say that the AETO who merely quantified the charge of tax by passing an assessment order was a delegate of the charge of entertainment tax. What the AETO has done by passing the assessment orders is only to quantify the entertainment tax payable by the petitioner. It is not disputed that the power to pass the assessment order and quantify the entertainment tax can be delegated and there is no prohibition under Section 4(1) of the Act. The contention, therefore, fails and is rejected.

15. The second contention put forth before us is that the sponsorship amounts collected by the petitioner cannot be considered as “payment for admission” within the meaning of Section 2 (m) or Section 6 (6) of the Act. It is stated that sponsors make payment of the amounts to the petitioner for sponsoring the Fashion show and there is no stipulation that the amounts are received by the petitioner on condition that some persons will be allowed admission to the Fashion shows without any separate payment for the same. This contention was put forward before the AETO. But he has not chosen to examine the same on the basis of the facts, the agreements

between the petitioner and the sponsors. He has examined the question whether the Fashion shows are “entertainment” within the meaning of the Act, an aspect about which there is now no dispute. The AETO has referred to the question whether the sponsorship amount collected by the petitioner represented payment for admission to an entertainment in para 17 of his order dated 11.06.2009, which is an assessment order for the period 15.10.2008 to 19.10.2009. He has merely referred to Section 2(m) of the Act, and particularly to clause (i) of the provision. He has noted that the definition of the expression “payment for admission” is an inclusive definition and, therefore, should be construed liberally. He has also referred to Section 2(a) of the Act which defines the term “admission to the entertainment”. From this provision he has drawn the inference that even if the payment received by the petitioner is not in consideration of allotment of seats to the sponsor, it would still fall for being considered as payment for admission because of the inclusive definition which is wide enough to cover participation in any Fashion show. In support of his conclusion the AETO merely referred to Section 6(6) of the Act in paras 24 and 25 of the impugned order.

16. We are of the view that unless the terms and conditions of the sponsorship agreement are examined it may not be possible to ascertain the true nature of the payment and decide about the applicability of the relevant provisions of the Act. The AETO, as noted above, has not carried out this exercise and has rested his conclusion merely on the statutory provisions

without ascertaining the basic facts or examining the terms and conditions of the sponsorship agreement. The entire exercise seems to us to be meaningless, if the factual background and the agreement between the parties have not been examined. The provisions of the Act have to be applied only to the facts gathered and governing the case and not *in vacuo*. We are therefore of the opinion that the impugned orders passed by the AETO have to be quashed. We accordingly issue a writ of certiorari quashing them. It is open to the AETO to examine the relevant facts including the terms and conditions of the sponsorship agreements and thereafter consider the applicability of the provisions of the Act and decide whether the petitioner is liable to pay entertainment tax or not, by passing fresh orders of assessment after hearing the petitioner.

17. So far as the contention of the petitioner against the order dated 10.09.2009 passed by the Government of NCT of Delhi, granting 50% exemption to the petitioner from entertainment tax is concerned, we do not find any strong grounds to quash the same. The power vested in the Government of NCT of Delhi under Section 14 of the Act to grant exemption is based on several criteria. The section is re-produced below for a better understanding of the rationale behind the same: -

“14. Exemption

(1) The government may, for promotion of arts, culture or sports, by general or special order, exempt any individual entertainment programme or class or entertainments from liability to pay tax under this Act.

(2) The government may, by general or special order, exempt in public interest any class of audience or spectators from liability to pay tax under this Act.

(3) Without prejudice to the generality of the provisions of subsection (1) where the government is satisfied that any entertainment,

(a) is wholly of an educational character, or

(b) is provided partly for educational or partly for scientific purposes by a society not conducted or established for profit; or

(c) is provided by a society not conducted for profit and established solely for the purpose of promoting public health or the interests of agriculture, or a manufacturing industry, and consists solely of an exhibition of articles which are of material interest in connection with questions relating to public health or agriculture or are the products of the industry for promoting the interest whereof the society exists, or the materials, machinery appliances or foodstuff used in the production of such products;

it may, subject to such terms and conditions as it may deem fit to impose, grant exemption to such entertainment from payment of tax under this Act:

PROVIDED that the government may cancel such exemption if it is satisfied that the exemption was obtained through fraud or misrepresentation, or that the proprietor of such entertainment has failed to comply with any of the terms or conditions imposed or directions issued in this behalf and thereafter the proprietor shall be liable to pay the tax which would have been payable had not the entertainment been so exempted.

(4) Where the government is satisfied that the entertainment programme is not conducted for profit and the entire gross proceeds from payment for admission as defined in clause (1)

of section 2 of an entertainment are to be devoted to philanthropic, religious or charitable purposes, without any deductions whatsoever on account of the expenses of the entertainment, it may, subject to the rules made under this Act, grant exemption to such entertainment from payment of tax under this Act on such terms and conditions as it may deem fit to impose.

(5) Where any exemption from payment of tax is granted under sub-section (4), the proprietor of such entertainment shall furnish to the Commissioner such documents and records and in such manner as may be prescribed.

(6) If the proprietor of an entertainment exempted under sub-section (4) fails to furnish the documents and records required under sub-section (5), or fails to comply with any conditions imposed or directions issued in this behalf, or if the government is not satisfied with the correctness of such documents or records, the government may cancel the (sic.) exemption so granted and thereupon the proprietor shall be liable to pay the tax which would have been payable had not the entertainment been so exempted.

(7) The government may for reasons to be recorded in writing grant export facto exemption from payment of entertainment tax in respect of any programme.”

18. Before passing the impugned order granting 50% exemption from payment of entertainment tax as against the claim of 100% exemption made by the petitioner, a personal hearing was given on 18.08.2009. There is, therefore, no violation of the rules of natural justice. The petitioner had pointed out that it is a non-profit organization conducting Fashion shows which are not ticketed and for which entry is restricted by invitation only for domestic and international buyers and the media. Material in the form

of the web prints have been produced by the petitioner to show the support extended by the governments in UK and France for the various Fashion Weeks. It was pointed out that the Fashion Weeks contribute to the economy of Delhi by way of Hotel bookings, opening of Fashion Restaurants, Seminar Centres, etc. and ultimately the tourism industry benefits from the same. It was claimed that in the past the petitioner was granted exemption for similar events for many years and that since the facts and circumstances remained unchanged, the same considerations should apply. It was also submitted that there is no change in the legal position to justify any change in the stance of the government.

19. The above submissions of the petitioner were considered in detail by the Government of NCT of Delhi and the following order was passed: -

“The only issue before the Government is whether to grant exemption from payment of entertainment tax for the fashion shows organized by Fashion Design Council of India under Section 14 of the Act. Though the arguments put forward by the FDCI that such events contribute to the economy of the city cannot be discounted, yet the Government is required to assess the overall situation taking into consideration the requirement of funds for the socio-economic development of the State and the benefits that may arise by giving exemption to such entertainment events/fashion shows.

The argument of the FDCI that since similar exemption have been granted in the past, it is entitled to exemption from payment of tax as a matter of right is not supported by law,

hence not accepted. For the first few years exemption from payment of entertainment tax was granted to FDCI for fashion weeks as the Government was of the opinion to support nascent fashion industry in Delhi to enable it to strengthen and to make Delhi a popular center for fashion. Its spin-off benefits to textiles industry, artisans/handicrafts and tourism sector was also taken into consideration. However, it was never intended that such exemptions will be granted perpetually. From the audit report and balance sheet submitted by FDCI, it is noted that the net current assets as on 31.3.2009 was Rs.8.89 crores which includes cash and bank balances of Rs.7.48 crores. Since the financial health of the organization is satisfactory, there is no convincing reason as to why exemption from payment of entertainment tax on fashion shows organized by it should be continued at the cost of Government revenue.

However, considering the current scenario of recession in industrial and export sector and to protect Delhi as world class city in view of the forthcoming Commonwealth Games, the Government accepts the plea of the FDCI to grant exemption from payment of entertainment tax only to an extent of 50% of the tax amount as a special case. This exemption from payment of tax upto 50% of the tax amount is allowed on the two events i.e. 15.10.2008 to 19.10.2008 and 18.03.2009 to 23.03.2009 which have already been held and the forthcoming Van-Heusen India Men's Fashion Week to be held from 11th – 13th September, 2009. It is clarified that this exemption is not extended to future events being planned by FDCI. The Commissioner, Excise, Entertainment & Betting Tax may initiate necessary action as per law.

This issues with the approval of Hon'ble Finance Minister, Govt. of NCT of Delhi.”

20. Whether to grant exemption to the Fashion events from entertainment tax or not is a discretionary power granted to the Government of NCT of Delhi. However, the discretion is controlled by the criteria mentioned in the section. Even if the criteria stands satisfied, it is for the government to decide whether full exemption or part exemption is to be given to the petitioner from entertainment tax. The exemption, whether full or part, may also be granted subject to such terms and conditions as the government may deem fit to impose. It appears that essentially it is a matter which is within the domain of the executive and judicial review is limited to examining whether the relevant criteria have been kept in view and whether the decision making process has been just and fair. It is not for Court to examine the correctness of the decision of the executive. The Court can examine only the decision making process. On a perusal of the order passed by the Government of NCT of Delhi on 10.09.2009 and on a fair reading thereof we find that the petitioner has been given a personal hearing to explain its petition for exemption from entertainment tax and thus the rules of natural justice have been adhered to, though Section 14 of the Act does not specifically refer to the grant of a personal hearing. Secondly, all the points raised by the petitioner in support of the claim for exemption have been duly noted in the impugned order and taken into consideration by the competent authority. After taking into account all the relevant criteria and the submissions made by the petitioner, the competent authority has taken a decision to grant exemption to the petitioner from payment of entertainment tax only to the extent of

50% of the tax amount as a special case. In coming to this decision it seems to us that there is no flaw, irregularity or irrationality in the decision of the competent authority justifying interference under Article 226 of the Constitution of India. The relevant part of the impugned order which has been extracted by us hereinabove bear out the reasons for not accepting the claim of the petitioner in full. The petitioner has been treated fairly and objectively and we, therefore, decline to interfere.

21. In respect of the other writ petitions relevant to the other Fashion events the position is like this. In respect of the W.P. (C) 1169/2010, it is against the assessment order passed by the AETO on 10.09.2009 bringing to tax the sponsorship amount collected by the petitioner in respect of the Van Heusen India Men's Week, a Fashion show to be held from 11th to 13th September, 2009. For the reasons stated by us in W.P. (C) 1145/2010 the assessment order is quashed with the same directions. For this Fashion show also the Government of NCT of Delhi has granted only 50% exemption from entertainment tax vide order dated 10.09.2009. For the reasons stated by us W.P. (C) 1145/2010 we refrain from interfering with this order.

22. In respect of the other writ petitions, no assessment orders have been passed by the AETO levying entertainment tax on sponsorship amounts collected by the petitioner. However, those writ petitions challenge the orders passed by the Government of NCT of Delhi rejecting the application for exemption from entertainment tax. In line with our decision in W.P.(C)

1145/2010 on this point we uphold these orders and dismiss the writ petitions. We may however add that in case assessment orders are proposed to be passed, the AETO will have to afford adequate and reasonable opportunity of being heard to the petitioner. He should also examine the facts and the sponsorship agreements before passing orders, keeping in view our observations in paragraph 16 above.

23. In these writ petitions, interim directions were issued for deposit of tax as condition for issue of NOC for holding the events. The events were permitted to be held as the petitioners deposited the tax as directed by this Court. In the assessment orders to be passed under Section 15 of the Act, pursuant to the disposal of the writ petitions, the AETO may raise demands including interest, subject to appropriate/ suitable adjustments for tax already deposited, and subject to the petitioner being given reasonable opportunity of being heard.

24. In the result W.P.(C) 1145/2010 and 1169/2010 are allowed to the extent indicated above and all other writ petitions are dismissed. There shall be no order as to costs.

(R.V. EASWAR)
JUDGE

(SANJIV KHANNA)
JUDGE

APRIL 30, 2012/hs