$~26

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

\+ W.P.(C) 10679/2015

DELHI AND DISTRICT CRICKET ASSOCIATION.....Petitioner

Through: Mr. T. Singhdev, Mr. Bhanu Gulati & Ms. Nirja, Advs.

Versus

GOVT. OF NCT OF DELHI THROUGH CHIEF SECRETARY & ANR. .....Respondents

Through: Mr. Abhinav Sharma, Adv.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% 10.07.2025

1. The petitioner has filed the present petition, *inter alia*, praying as under:

> "(a) to issue a writ of certiorari or any other writ, order or direction quashing of the impugned notification and amendment to section 2(m) of the Delhi entertainment and betting act thereby taxing sponsorship and advertisements from retrospective date 01/04/1998, being ultra virus and unconstitutional;
>
> (b) to issue writ of certiorari and/or any writ, order or direction of similar nature quashing and setting aside the assessment order dated 23.10.2015 passed by the Entertainment Tax Officer under Section 15(1) of DEBT Act, 1996;
>
> (c) to issue a writ of mandamus and/or any other writ, order or direction directing and declaring that the Petitioner is not entitled to be. tax under DBET Act for the relevant period for the receipts on account of sponsorship/advertisement;
>
> (d) direct the respondents to issue NOC to the petitioner for smooth conduct and organization of forthcoming matches
>
> (c) to issue writ, order or direction in the nature of mandamus directing the respondents not to insist upon the petitioner for the frivolous demand raised vide Assessment Order dated 23.10.2015;"

2. Concededly, the issue involved in the present petition is covered by the decision of Hon'ble Mr. Justice S. Ravindra Bhat in ***Fashion Design Council of India v. Govt. of NCT of Delhi & Anr.: Neutral Citation No.2017:DHC:7976-DB***. The relevant extract of the said decision is set out below:

> "82. In view of the foregoing reasons, this court summarizes its findings and issues the following directions:
>
> (1) The impugned amendment does not result in a valid levy of entertainment tax; mere amendment to the definition of "payment for admission" under Section 2 (m) of the Act cannot, in the absence of an amendment to the charging section, or introduction of a new charging section, introduce a levy. Therefore, the demands made on the basis of the amendments are hereby declared as contrary to Articles 14 and 265 of the Constitution of India.
>
> (2) The impugned levy, to the extent it does not introduce a separate machinery also fails and a direction to that effect is also issued;
>
> (3) Arguendo, the impugned amendment is to be valid, it is not clarificatory but in fact a new amendment. Therefore, granting retrospective effect to it, would impose onerous and harsh conditions, that could never have been provisioned for by the event proprietors. As a result, the retrospective effect given to the impugned amendment is void as violative of Articles 14 and 265 of the Constitution of India.
>
> (4) The petitioners cannot be said to have waived their right to challenge the levy or collection of amounts as duty in the circumstances of these cases;
>
> (5) The amounts collected by the respondents, from FDCI, BCCI, DEN and other petitioners are directed to be refunded to them, with interest @ 7 percent per annum from date of payment, within 8 weeks from today. In the case of GMR, the amounts collected towards sponsorship receipts (as opposed to ticket collections for which tax has been deposited in the normal course) shall be similarly refunded, with similar rate of interest within 8 weeks."

3. Since there was a difference of opinion between the members of the Division Bench in ***Fashion Design Council of India v. Govt. of NCT of Delhi & Anr.*** (*supra*), a reference was made to the Third Judge of this court. The said petition was disposed of by a judgment dated 05.08.2024 [***Fashion Design Council of India v. Govt. of NCT of Delhi & Anr.: Neutral Citation No.2024:DHC:5779***] whereby the conclusion, as noted above, rendered by Hon'ble Mr. Justice S. Ravindra Bhat was affirmed.

4. In view of the above, the assessment order dated 23.10.2015 passed by Entertainment Tax Officer, which is impugned in the present petition, is set aside.

5. The learned counsel appearing for the respondents states that respondents have not accepted the aforesaid decision and have taken steps to challenge the same.

6. The petitioner was, in terms of the order dated 19.11.2015, directed to deposit ₹1 crore with respondent no.2 towards the impugned entertainment tax dues. Since the petitioner has prevailed in its challenge, the said amount is required to be refunded to the petitioner. We accordingly, direct the respondents to do so within a period of eight weeks from date.

7. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

TEJAS KARIA, J

JULY 10, 2025
'gsr'