

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE**

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 2055 of 2012

(Arising out of Order-in-Appeal No. 145/2012 dated 31/05/2012 passed by the
Commissioner of Central Excise, Bangalore)

Shri Anil Kumble

No. 4040, Kreedda, 17th Main,
28th Cross, Banashankari 2nd Stage
Bangalore - 560 070

....Appellant

VERSUS

**Commissioner of Central Excise,
Customs & Service Tax,
Bangalore-I Commissionerate**

Post Box No. 5400, C.R. Buildings,
Queen's Road
Bangalore – 560 001
Karnataka

....Respondent

WITH

Service Tax Appeal No. 2056 of 2012

[Arising out of Order-in-Appeal No. 147/2012 dated 31/05/2012 passed
by the Commissioner of Central Excise (Appeals-II), Bangalore]

Shri Anil Kumble

No. 4040, Kreedda, 17th Main,
28th Cross, Banashankari 2nd Stage
Bangalore - 560 070

....Appellant

**Commissioner of Central Excise,
Customs & Service Tax, Bangalore-I
Commissionerate**

Post Box No. 5400, C.R. Buildings, Queen's
Road
Bangalore – 560 001
Karnataka

....Respondent

APPEARANCE:

Mr. V. Raghuraman, Senior Advocate

For the Appellants

Mr. P. Gopakumar, Additional
Commissioner (AR)

For the Respondent

CORAM:

HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

HON'BLE MR. P. DINESHA, JUDICIAL MEMBER

Final Order Nos. 20156 - 20157 / 2022

Date of Hearing: 18/02/2022

Date of Decision: 31/03 /2022

Per : P. DINESHA

Show-cause notices dated 21/10/2010 & 19/10/2009 were issued based on the agreement between players and franchisee and MOU between M/s. United Breweries Limited (UBL for short) and M/s. Royal Challengers Sports Private Limited (RCSPL for short), alleging thereby that the appellant had provided the services of promotion or marketing of goods/services by engaging himself in carrying advertising, promotional activity, team endorsement provided by M/s. RCSPL/franchisee/co-sponsors and hence, the same was taxable in terms of Section 65(105)(zzb) of the Finance Act, 1994. It was also proposed that the appellant had also provided the services under the category of "Business Auxiliary Service" as the services

provided by the appellant were covered under (i) and (ii) to Section 65(19) *ibid*. It was thus proposed to demand service tax of Rs. 27,65,676/- (Rupees Twenty Seven Lakhs Sixty Five Thousand Six Hundred and Seventy Six only) for the period 2009-10 and Rs. 21,41,105/- (Rupees Twenty One Lakhs Forty One Thousand One Hundred and Five only) for the period 2008-09, apart from interest under Section 75 and penalties under Sections 76 and 77 *ibid*.

2. The appellant filed a detailed reply denying any liability as proposed but, however, the adjudicating authority vide Orders-in-Original dated 30/09/2011 and 27/01/2011 chose to confirm the demand of service tax as well as interest and penalties as proposed. Aggrieved by the demands, the appellant filed appeal before the First Appellate Authority and the First Appellate Authority vide impugned Orders-in-Appeal dated 31/05/2012 having upheld the demand as per the Orders-in-Original, the appellant is before this forum.

3. Heard Shri V. Raghuraman, learned Senior Advocate for the appellant and Shri P. Gopakumar, learned Additional Commissioner for the Revenue.

4. At the outset, we agree with the contentions of the learned Senior Advocate that the issue is no more *res integra* as the very same issue was considered by the learned Kolkata Bench of the CESTAT in the case of ***Sourav Ganguly Vs. Commissioner of Central Goods & Service Tax, Kolkata vide Final Order No. 75660/2020 dated 14/12/2020*** reported in ***2020 SCC OnLine CESTAT 378*** wherein, the issue has been decided in favour of a similarly placed taxpayer. The learned Kolkata Bench has elaborately considered the relevant provisions as well as orders of various Benches of CESTAT and also that of the decision of the Hon'ble Bombay High Court in the case of ***Indian National Shipowners' Association Vs. Union of India - 2009 (14) S.T.R. 289 (Bom.)*** wherein it has been held that the activity of the appellant therein could not be subjected to levy of service tax under Business Auxiliary Service prior to July 1st, 2010. Said order of learned Kolkata Bench applies to this case in all force since one of us [namely Member (Technical) is also a party to it]. Following the ratio of the learned Kolkata Bench, therefore, we hold that there is no liability on the appellant and hence, demands raised for both the periods cannot sustain.

5. In view of the above, the impugned orders are set aside and the appeals are allowed with consequential benefits, if any, as per law.

(Order pronounced in Open Court on **31/03/2022**)

(P. ANJANI KUMAR)
TECHNICAL MEMBER

(P. DINESHA)
JUDICIAL MEMBER

...iss