

Rajasthan Tax Board, Aimer

1. Appeal No. 2196/2016/Jaipur
2. Appeal No. 2197/2016/Jaipur
3. Appeal No. 2198/2016/Jaipur
4. Appeal No. 2199/2016/Jaipur
5. Appeal No. 2200/2016/Jaipur
6. Appeal No. 2201/2016/Jaipur
7. Appeal No. 2202/2016/Jaipur
8. Appeal No. 2203/2016/Jaipur
9. Appeal No. 2204/2016/Jaipur
10. Appeal No. 2205/2016/Jaipur
11. Appeal No. 2206/2016/Jaipur
12. Appeal No. 2207/2016/Jaipur
13. Appeal No. 2208/2016/Jaipur

M/s Inox Leisure Ltd.
IV Floor, Crystle Palm,
Sardar Patel Marg,
C-Scheme, Jaipur

...Appellant

VERSUS

Commercial Taxes Officer,
Anti-Evision, Zone-III,
Jaipur

.....Respondents

S.B.

SHRI OMKAR SINGH ASHIYA, MEMBER

Present :

Shri Pankaj Ghiya, Advocate

.....for Appellant

Shri Ramkaran Singh,

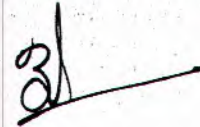
Dy. Govt. Advocate

.....for Respondents

Dated : 04/01/2018

JUDGMENT

1. These appeals have been filed by the appellant under section 13B of the Rajasthan Entertainments & Advertisements Tax Act, 1957 (hereinafter called the "Act"), against order of the Appellate Authority-II, Commercial Taxes, Jaipur (hereinafter called the "appellate authority") who while disposing off the Appeals Nos. 52 to 65/App. Auth-II/Entt. Tax/2016-17 vide order dated 08.09.2016, has partly accepted the appeals and confirmed the imposition of tax and interest but has set aside the penalty, as imposed by Commercial Taxes Officer, Anti-Evasion, Zone-III, Jaipur (hereinafter called the "assessing authority") in the assessment orders for the months of



August, 2014 to September, 2015. The details of the disputed tax and interest as challenged in these appeals, are as under:-

S.No.	Tax Board's Appeal No.	Appellate Authority's Appeal No. and Assessment Period	Disputed Amount	
			Entertainment Tax	Interest
1.	2196/2016/Jaipur	52/August, 2014	114673	39562
2.	2197/2016/Jaipur	53/September, 2014	80227	26074
3.	2198/2016/Jaipur	54/October, 2014	156656	47781
4.	2199/2016/Jaipur	55/November, 2014	61280	17465
5.	2200/2016/Jaipur	56/December, 2014	221376	58665
6.	2201/2016/Jaipur	57/January, 2015	91403	22394
7.	2202/2016/Jaipur	58/February, 2015	70691	15905
8.	2203/2016/Jaipur	59/March, 2015	50678	10389
9.	2204/2016/Jaipur	60/April, 2015	144803	26788
10.	2205/2016/Jaipur	61/May, 2015	269284	44432
11.	2206/2016/Jaipur	62/June, 2015	224112	32496
12.	2207/2016/Jaipur	63/July, 2015	288388	36048
13.	2208/2016/Jaipur	65/ September, 2015	111348	9465

2. As a common point is involved in all the thirteen appeals, therefore, the same are disposed off by a common order. Copy of this order be placed on each appeal file.

3. Brief facts leading to the present appeals are that the appellant is in the business of exhibition of films and liable to tax on payment received for admission to an entertainment. There is no dispute regarding payment of entertainment tax on the tickets sold through the booking counters of its multiplexes. However, for the bookings made through the online portals e.g. "Book my Show" etc., the assessing authority arrived at a conclusion that Convenience Charges or Internet Handling Fees paid by the persons getting online booking, are also taxable in light of the definition of term 'payment for admission' as provided under section 3(7) of the Act. Accordingly, the assessing authority levied tax, interest along with penalty under section 10(3)(b) on the amount relating to Convenience Charges/Internet Booking Charges.

4. Aggrieved of the assessment orders dated 14.03.2016, the appellant preferred appeals under Section 13A of the Act. The appellate authority while deciding these appeals has upheld the imposition of tax and interest but has set aside the penalty.

5. Learned advocate appearing for the appellant submits that the State Government vide notification no. F.12(14)FD/Tax/2017-98 dated 08.03.2017 has granted exemption on the amount charged for rendering the service of online booking of tickets for admission to an entertainment by the service provider, and in light of this notification the impugned levy of tax and interest does not survive anymore. He has further requested to accept the appeals.

6. Learned Deputy Government Advocate appearing for the respondent submitted that though the imposition of tax, interest and penalty was initially correct, but looking into the changed scenario in light of the notification dated 08.03.2017, the Entertainment Tax has been remitted on online booking charges.

7. I have gone through the submissions of both sides and perused the record.

8. The State Government had notified the levy of Entertainment Tax on exhibition of films w.e.f. 01.08.2014, vide notification dated 14.07.2014. The appellant, though duly paid the tax on the tickets issued from its counters but no tax was collected or deposited by the appellant on the tickets sold through online booking by online portals like "Book my Show". The assessing authority relying on the definition of the term "payment for admission" as given u/s 2(7) of the Act, treated the amount of Convenience Charges/Internet Handling Fees as collected by the service provider, to be exigible to levy of Entertainment Tax as provided under section 4 of the Act.


9. Later, the State Government, vide notification no. F.12(14)FD/Tax/2017-98 dated 08.03.2017 has remitted Entertainment Tax on the amount charged for rendering service of online booking of tickets. The material part of the said notification is reproduced hereunder:-

"In exercise of the powers conferred by sub-section (2) of section 7 of the Rajasthan Entertainments and Advertisements Tax Act, 1957 (Act No. 24 of 1957), the State Government being of the opinion that reasonable grounds exist for doing so in the public interest, hereby, with effect from 01.08.2014, remits 100% entertainment tax leviable under section 4 of the said Act, on the amount charged for rendering the service of online booking of tickets for admission to an entertainment by the service provider, on the condition that the amount of entertainment tax charged or collected on the said amount shall be deposited with the State Government and if already deposited, shall not be refunded"

10. On issuance of the above mentioned notification, the issue under consideration stands resolved by the State Government as the 100% remission from Entertainment Tax leviable on the amount charged for rendering the service of online booking of tickets for admission to an entertainment by the service provider, has been notified on 08.03.2017, therefore, the issue of taxability or non-taxability of the Convenience Charges/Internet Handling Fees as agitated in the present appeals, does not survive for further adjudication, hence the present appeals are disposed off accordingly, without requiring to go into merits of the case.

11. Since the State Government has already notified 100% remission from entertainment tax leviable on the amount charged for rendering the service of online booking of tickets for admission to an entertainment by the service provider, therefore, there is no liability of tax on such charges collected by the online booking service provider and the tax and interest as upheld in the appellate order is negated by virtue of the notification itself. Accordingly, the appeals are accepted and assessing authority is directed to give necessary effect of the said notification as stipulated therein, to the appellant.

12. Order pronounced.


04.01.2018
(Omkar Singh Ashiya)
Member