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

+ CS(COMM) 120/2019 & I.A. 3307/2019, I.A. 7870/2019, I.A. 7871/2019, I.A. 12586/2020

BOXING FEDERATION OF INDIA Plaintiff
Through Mr. Hrishikesh Baruah, Adv.
with Mr. Parth Goswami and Ms. Daisy
Roy, Advs.

versus

INDIAN AMATEUR BOXING FEDERATION & ORS.
..... Defendants
Through Mr. Abhigya Kushwah, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER

% **12.04.2021**
(Video-Conferencing)

I.A. 7870/2019 (under Order VII Rule 11 CPC) in CS(COMM) 120/2019

1. Mr. Abhigya Kushwah, learned counsel for applicants in this application (who are defendants in the main suit) urges, as the sole ground for pressing this application, the contention that the present suit is not a commercial suit within the meaning of the Commercial Courts Act, 2015.

2. Mr. Hrishikesh Baruah, learned counsel for the plaintiff, submits that, *stricto sensu*, the dispute in this suit may not fall within the definition of “commercial disputes” in Section 2(1)(c) of the Commercial Courts Act, 2015, which (*sans* the Explanation) reads

thus:

- “(c) “commercial dispute” means a dispute arising out of –
- (i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;
 - (ii) export or import of merchandise or services;
 - (iii) issues relating to admiralty and maritime law;
 - (iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;
 - (v) carriage of goods;
 - (vi) construction and infrastructure contracts, including tenders;
 - (vii) agreements relating to immovable property used exclusively in trade or commerce;
 - (viii) franchising agreements;
 - (ix) distribution and licensing agreements;
 - (x) management and consultancy agreements;
 - (xi) joint venture agreements;
 - (xii) shareholders agreements;
 - (xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;
 - (xiv) mercantile agency and mercantile usage;
 - (xv) partnership agreements;
 - (xvi) technology development agreements;

(xvii) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;

(xviii) agreements for sale of goods or provision of services;

(xix) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;

(xx) insurance and re-insurance;

(xxi) contracts of agency relating to any of the above; and

(xxii) such other commercial disputes as may be notified by the Central Government.”

However, he submits that, merely on that ground the suit cannot be returned or dismissed, but may be converted to a non-commercial suit, as the dispute involves an amount in excess of ₹ 2 crores, and heard by the appropriate bench of this Court.

3. The prayer clause in the suit reads as under:

“A] Pass a Decree of Permanent Injunction in favour of the Plaintiff and against the Defendants restraining them from representing that they are a National Sport Federation of Boxing and that they are affiliated/recognised to Indian Olympic Association or Ministry of Youth Affairs, and Sports, Government of India and AIBA in any manner whatsoever;

B] Pass a Decree of Permanent Injunction in favour of the Plaintiff and against the Defendants restraining it from conducting any national/regional/zonal/inter-zonal/ all-India/Federation cup level championships for boxing in India;

C] Pass a Decree of Permanent Injunction in favour of the Plaintiff and against the Defendants restraining it from using the word "INDIA" or its natural variations like "INDIAN" in its name, website, emails;

D] Pass a Decree in favour of the Plaintiff and against the Defendants for delivery by the Defendants of all the leaflets/ pamphlets/ handbills/communications or any other published material which is in Defendant's possession.

E] Pass a Decree for damages to the tune of Rs. 2,00,01,000 (Rupees two Crores One thousand) jointly and severally against the Defendants, being damages on account of loss of goodwill and reputation due to the illegal, unlawful, fraudulent actions of the Defendants.”

F] Pass a Decree of rendition of accounts in favour of the Plaintiff and against the Defendants thereby rendering accounts for monies received by Defendant No. 1 by representing itself to be a National Sports Federation for Boxing or affiliated to IOA or MYAS from 14.12.2017.”

4. It is clear that the dispute in the suit cannot be treated as a “commercial dispute” within the meaning of Section 2(1) (c) of the Commercial Courts Act. The submission made by both counsel, *ad idem*, is, therefore, correct.

5. Mr. Abhigya Kushwah, learned counsel for the applicants/defendants, submits that, though there is no express provision permitting conversion of a “commercial suit” to “non-commercial suit”, as this Court has been converting “non-commercial suits” to “commercial suit”, on the dispute being found to be commercial in nature, he leaves it to the Court.

6. As per the valuation of the suit in the plaint, the suit would lie

within the pecuniary jurisdiction of this Court.

7. As such, I deem it appropriate, to avoid multiplicity of proceedings, to direct the Registry to list the present suit as a non-commercial suit [CS (OS)], and list it before the appropriate bench, as per the orders of Hon'ble Judge in-Charge (Original Side) on 22nd April, 2021.

C. HARI SHANKAR, J.

APRIL 12, 2021

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