

(2015) 02 RAJ CK 0042

In the Rajasthan High Court

Case No : Sales Tax Revision Nos. 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 261, 262, 263, 264 and 265/2012 and 2 and 3/2013

Sky Media (P) Ltd.

APPELLANT

Vs

Asstt. Commissioner, Commercial Taxes

RESPONDENT

Date of Decision : 16-02-2015

Acts Referred:

Rajasthan Entertainments and Advertisements Tax Act, 1957 — Section 3, 3(8), 4, 4A, 6A
Telegraph Act, 1885 — Section 4

Citation : (2015) 4 RLW 3413

Hon'ble Judges : Vineet Kothari, J.

Bench : Single Bench

Advocate : Manish Shishodia, for the Appellant; Vinit Kumar Mathur, Advocates for the Respondent

Judgement

Dr. Vineet Kothari, J.—This batch of revision petitions filed under the Rajasthan VAT Act, 2003 by the assessee M/s Sky Media Pvt. Ltd., who is a "Multi System Operator" (MSO) aggrieved by the order of the Tax Board dated 4/5/2012 deciding a batch of appeals filed by the Revenue and while allowing such appeals of the Revenue, the matters were remanded back to the Assessing Authority for decision afresh in accordance with the amended provisions of the Rajasthan Entertainments and Advertisements Tax Act, 1957 (hereinafter referred to as "the Act of 1957").

2. For disposal of present set of revision petitions, the facts illustratively are taken from Sales Tax Revision No. 263/2012 - M/s Sky Media (P) Ltd. vs. Asstt. Commissioner, Commercial Taxes, Circle "A", Jodhpur. The Assessing Authority in the present cases for the assessment period September 2006 passed an impugned assessment order dated 25/6/2009 imposing the entertainment tax of Rs. 7,49,900/- @ Rs. 20/- per subscriber for 37495 subscribers and interest on

such entertainment tax for the delay in payment of the same at Rs. 4,86,187/- totalling to Rs. 12,36,087/-. The assessing authority held that in view of the amended definitions and charging provisions contained in Section 4AA of the Act of 1957, the proprietor of the Cable TV Network providing cable service shall also be liable to pay the entertainment tax at the rate not exceeding Rs. 600/- per subscriber every year and at such rates the State Government may notify from time to time in the official Gazette and since according to the Assessing Authority in view of the latest Supreme Court decision available at that time in the case of State of The State of West Bengal and Others Vs. Purvi Communication Pvt. Ltd. and Others, , the assessee M/s Sky Media Pvt. Ltd., a Multi System Operator (MSO) fell within the said definition of 'Proprietor' providing the satellite signals to the cable operators, who in turn transmit such signals to the ultimate viewers/consumers through their set top boxes, therefore, the assessee company was liable to pay the entertainment tax under the amended provisions of the law and in view of the aforesaid Supreme Court decision and hence the said assessment order was framed.

3. The first appeal filed by the assessee before the Deputy Commissioner (Appeals), however, came to be allowed on 24/2/2011 and the learned first appellate authority held that the assessee MSO was not the last provider of the entertainment to the subscribers or consumers but it provides satellite signals to the cable operators, who in turn transmit the signals to the viewers/subscribers and, therefore, the assessee would not fall within the charging provision of the said amended law and, therefore, levy of tax as well as interest was liable to be set aside.

4. Being aggrieved by the same, the Revenue filed second appeal before the Rajasthan Tax Board and the learned Tax Board vide order dated 4/5/2012 held in favour of the Revenue that both MSO and the cable operators would fall within the definition of 'Proprietor' providing such entertainment, therefore, the matter was remanded back to the Assessing Authority for passing fresh assessment order in light of the amended provisions of law and also in light of the Supreme Court decision in the case of M/s Purvi Communication(supra). Aggrieved of the said order, the assessee has filed the present batch of revision petitions before this Court on the question of law arising in the present cases and while issuing notice to the respondent Revenue Department, the coordinate bench of this Court on 27/4/2013 stayed the further proceedings before the assessing authority in pursuance of the order of the Tax Board dated 4/5/2012 and that is where the position of assessment stands as of now.

5. Though against the simple remand order of the Tax Board, this Court would not have entertained the revision petitions on the purported question of law arising in the present cases but since an important question of law does arise from the orders of the authorities created under the Act and it is likely to affect the various number of assesseees, in order to avoid multiplicity of litigation at various forums and since Hon''ble Supreme Court has already decided the said

controversy, this Court finds that the controversy is now no longer *res integra* but stands concluded and, therefore, the question of law arising out of the order of the Tax Board and the assessing authority below deserves to be decided by this Court in the present set of revision petitions and accordingly, the following question of law is framed for consideration by this Court:-

"Whether the assessee M/s Sky Media (P) Ltd. Jodhpur, a Multi System Operator (MSO), falls within the definition of 'Proprietor' and the charging provision of the Rajasthan Entertainments and Advertisements Act, 1957 and is liable to pay entertainment tax on the satellite signals or electronic TV signals provided to the cable operators, who further transmit the same to the viewers/consumers for entertainment by exhibition of films and videos etc." 6. Learned counsel for the assessee - M/s Sky Media Pvt. Ltd., Mr. Manish Shishodia submitted that the judgment of the Hon'ble Supreme Court in the case of M/s Purvi Communication (supra), which dealt with the provisions of West Bengal Entertainment cum Amusement Tax Act, 1982 would not cover the present cases because in that Act a separate definition of 'Cable Operator' and 'Sub-Cable Operator' was incorporated, whereas, no such separate definitions of Multi System Operator, Cable Operator or Sub-Cable Operator are to be found even under the amended provisions of Rajasthan Entertainments and Advertisements Tax Act, 1957 and, therefore, in the absence of any specific definition clause applicable to the present assessee, a MSO, the charging provision of Section 4AA, which was amended even with retrospective effect could not apply to the present assessee and, therefore, imposition of entertainment tax in the present cases cannot be sustained.

7. Elaborating his argument further, Mr. Manish Shishodia urged that the present assessee does not directly provide cable signals or electronic signals to the 'subscribers' as defined in Section 11A of the Act of 1957 and there is a separate agency known as cable operator in between the present assessee-MSO and the ultimate user namely; subscriber/customer. Therefore, he submitted that unless so specifically covered by law, the petitioner assessee cannot be subjected to levy of tax much less interest or penalty thereon.

8. Relying upon the judgment of Supreme Court in the case of Tata Sky Ltd. Vs. State of M.P. and Others, , Mr. Shishodia submitted that prior to the amendment in the Madhya Pradesh Vilasita, Manoranjan, Amod Evam Vigyapan Kar Adhiniyam, 2011 w.e.f. 1/4/2011, the Hon'ble Supreme Court held that unamended provisions of the M.P. Act, 1936 did not cover Direct to Home Service (DTH) and since DTH service is not a place related entertainment, therefore, pan-India DTH service under the brand name Tata Sky was not liable to the entertainment tax from 5.5.2008 to 1.4.2011 i.e. the period falling between tax notice and enactment of new law of 2011. Drawing support from the said judgment, Mr. Shishodia sought to raise the point likewise that the present assessee being MSO in the present case, which only provides TV signals to the cable operators and having no privity of contract with the end users, the

assessee cannot be brought within the tax net and the charging provision would not apply and in view of this lacuna in the legislation of not providing separate definition of MSO to be included in the definition clause or that of cable operator or sub-cable operator, no such entertainment tax can be imposed.

9. Countering these submissions vehemently, learned counsel for the Revenue, Mr. Vineet Mathur submitted that the controversy not only stood concluded by the Hon"ble Supreme Court in the judgment of M/s Purvi Communication (supra) but it was further reiterated, explained and followed in the case of Indusind Media and Commun. Ltd. and Another Vs. Mamlatdar and Others, in which the Hon"ble Supreme Court clearly held and followed the previous view of three judges bench judgment in the case of M/s Purvi Communication (supra) and the two judges bench held that the Multi System Operators, who transmit the signals to the cable operators and in turn, the cable operators transmit signals to the subscribers, would clearly fall within the definition of "Proprietor" as per the provisions of West Bengal Act, as they are connected to the organization of the entertainment.

10. Learned counsel for the Revenue, Mr. Vineet Mathur submitted that even in the case of M/s Purvi Communication (supra) on a detailed discussion in para 35 of the judgment, the Hon"ble Supreme Court clearly held that the activity of providing TV signals to the cable operators, who are called here the Multi System Operators, as defined under clause 4(a) of the West Bengal Act and the cable operators providing signals to sub-cable operators also separately defined fall within the tax net as held by the Supreme Court in M/s Purvi Communication (supra).

11. Mr. Vinit Mathur also submitted that there is no lacuna in the Rajasthan Entertainments and Advertisements Tax Act, 1957 even though it does not separately and specifically defines Multi System Operator, Cable Operators and Sub-Cable Operators as has been done under the West Bengal Act because the amended charging provision and amended definition of "Proprietor" and "Subscriber" clearly and unambiguously covers the present assessee M/s Sky Media Ltd., a MSO, and, therefore, the charging provision cannot be allowed to fail on the so called lacuna in the legislation of not separately defining the MSO, Cable Operator and Sub Cable Operator, as the case may be, because there is no requirement of defining separate class of dealers by separate definitions in the law and if the broader definition of Proprietor covers the assessee read with the charging provision, it cannot be even termed as a lacuna in law much less charging provision to fail on that ground.

12. Mr. Vinit Mathur further submitted that neither the retrospectivity of the amendment is in question nor such question has been raised by the assessee at any point of time and, therefore, the amended provisions applied for the period of assessment in question, clearly and unambiguously, and the present revision petitions filed by the assessee deserve to be dismissed. He also relied on the recent judgment of Jharkhand High Court in the case of Ms. Bharti Telemedia

Limited Vs. The State of Jharkhand and Others, in which the Division Bench of the Jharkhand High Court upheld the validity of amended provisions of Jharkhand Entertainment Tax Act, 2012 and held that levy of tax on entertainment through DTH Service by the State Legislature is not ultra vires the power of the State Legislature under Entry 62 of List II of the Seventh Schedule of the Constitution of India and the Division Bench also held that levy of separate rate of entertainment tax @ 10% on DTH service vis-a-vis 7.5% on the entertainment through cable TV was also not discriminatory, therefore, the present revision petitions have little force and are liable to be dismissed. Similar view was taken by the Division Bench of Allahabad High Court also in Sun Direct TV Pvt. Ltd. Vs. State of U.P. and Others, .

13. I have heard the learned counsels at length and perused the statutory provisions of law and the case laws referred and dispassionately considered the submissions made the bar.

14. Before dealing with the rival submissions, it is found appropriate to quote the relevant definitions, particularly, under the amended provisions of Rajasthan Entertainment and Advertisement Tax Act, 1957 to appreciate the controversy in hand. The definitions of `Cable Service" under sub-Section (3AA), `Cable Television Network" under sub-Section (3AAA), `Direct to Home Broadcasting Service" under sub-Section (4A), `Entertainment" under sub-Section (5), `Entertainment Tax" under sub-section (6), `Proprietor" under sub-section (8) `Subscriber" under sub-section (11-A) of Section 3 and the charging provision Section 4AA are quoted below for ready reference:-

"(3AA) "Cable Service" means the transmission by cables of programme including retransmission by cable of any broadcast television signals;

(3AAA) "Cable Television Network" means any system consisting of a set of closed transmission paths and associated signal generation/control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(4A) "Direct to home broadcasting service" means distribution of multi-channel television and radio programmes and similar content by using a satellite system, by providing signals directly to subscriber's premises without passing through an intermediary or otherwise.

(5) "Entertainment" includes,-

(i) any exhibition (show), performance, amusement, game or sport to which persons are admitted for payment;

(ii) providing cable service to a subscriber;

(iii) providing direct to home broadcasting service;

(6) "Entertainment tax" means the tax levied and charged under sections 4 and 4AA and includes the additional tax payable under section 6A.

(8) "Proprietor", in relation to any entertainment, includes any person -

(a) Connected with the organization of the entertainment, or

(b) Charged with a work of admission to the entertainment, or

(c) Responsible for, or for the time being in charge of, the management thereof or

(d) Having license to provide direct to home broadcasting service, by the Central Government under section 4 of the Indian Telegraph Act, 1885 (Central Act No. 13 of 1885), and Indian Wireless Telegraph Act, 1933 (Central Act No. 17 of 1933) and also includes service provider of cable television signals and value added services registered or licensed under the Cable Television Network (Regulation) Act, 1995 (Central Act No. 7 of 1995);

(11A) "Subscriber" means a person who receives the signals of television network and value added services from a proprietor at a place indicated by him, without further transmitting it to any other person:

Provided that, in case of further transmission of signals of cable television network, each room or premises where signals of cable television network are transmitted shall be treated as a subscriber:

Provided further that, in case of direct to home broadcasting service, every television set or computer set receiving the signals shall be treated as subscriber; 4AA. Levy of Tax on Cable Service and Direct to Home Broadcasting service-

(1) Subject to the provisions of this Act, there shall be charged, levied and paid an entertainment tax on all payments for admission to an entertainment through a direct to home broadcasting service or through a cable service with addressable system or otherwise, other than entertainment to which section 4 applies, at such rates not exceeding twenty percent of the payment for admission for every subscriber, as the State Government may, notify in this behalf.

(2) Notwithstanding anything contained in sub-section (1), the State Government may fix the rates of tax for the tax payable under this section a fixed amount, as may be notified but not exceeding rupees fifty, per subscriber per month or part thereof.

(3) Nothing in sub-section (1) shall preclude the State Government from notifying different rates of entertainment tax for house hold or for different categories of hotels.

(4) Where the subscriber is a hotel or a restaurant, the proprietor; may, in lieu of payment under sub-section (1), pay a compounded amount to the State Government on such conditions and in such manner as may be prescribed and at such rate as the State Government may, notify and different rates of compounded amount may be notified for the different category hotels and restaurant."

15. From the bare reading of the aforesaid charging provision read with the definition clause, it is true that there is no separate definition of the Multi System Operators like the present assessee, cable operators, sub-cable operators are found in the Rajasthan Entertainment and Advertisement Tax Act, 1957 but equally it is beyond any doubt that the MSO with the nature of work it does of receiving the satellite signals and transmitting the same to the cable operators is nothing but a work of cable operator as defined under the West Bengal Act, which was subject matter of the controversy before the Supreme Court in the case of M/s Purvi Communication (supra) and it would be of great value to quote para 34 and 35 of the said judgment to explain the aforesaid proposition that MSO is nothing but a cable operator as defined in the West Bengal Act read with the provisions of the Cable TV Network Regulations, 1995.

"34. In the instant case, respondent No. 1 is engaged in receiving and providing TV signals to individual cable operators is liable to pay tax under Sub-section (4a) of Section 4A of the Act. The expression "cable operator" has been defined by explanation to Sub-section (4a) of Section 4A as aforesaid for the purpose of the Sub-section only. Similarly, the meaning of sub-cable operator is given in the said explanation. There is no dispute that the respondent No. 1 being a cable operator within the meaning assigned by the explanation to Sub-section (4a) of Section 4A receives TV signals and transmits such signals to their sub-cable operator through their multi-system operator which is, in other words, a cable television network. There is also no dispute that after transmission of such signals by respondent No. 1 to their sub-cable operators they, in turn, provide cable service for exhibition of such performance, film or programme to individual customers. The respondents have, in fact, admitted this position. The respondents are carrying on business as Multi System Operator (MSO) being engaged in receiving and providing TV signals only to the individual cable operators of various localities.

35. The Cable Television Networks (Regulation) Act, 1995, a central legislation has been enacted to regulate the operation of cable television networks in the country and for matters connected therewith. This enactment does not, in our opinion, fetter the legislative power or competence of the State to levy tax on luxuries including taxes on entertainments, amusements, betting and gambling falling under Entry 62 of List II of Seventh Schedule to the Constitution. The power of regulation or control under the said central enactment is separate and distinct from the power of taxation by the State legislature under Entry 62 of List II being a specific power, the power of taxation cannot be cut down or fettered by the general power or regulation as exercised by the Parliament in enacting the said 1995 Act. Under the Legislative field exclusively reserved for the State Legislature, the levy of tax by more than one statute on different taxable objects and taxable persons is not prohibited by the Constitution of India. The Bengal Amusement Act, 1922 and the West Bengal Entertainment and Luxurious (Hostel and Restaurants) Act, 1972 are two statutes which have been enacted under the same legislature field i.e. Entry 62 of List II of Seventh Schedule to the

Constitution of India, and the two statutes apply admittedly to levy of tax on amusements, entertainments and luxuries in their respective area but the area of application of the said 1982 Act is different as would evident from the provisions of 1982 Act and the 1972 Act as aforesaid. The said 1982 Act was, for the first time, enacted by the State Legislature in 1982 and its area of application was initially confined to levy and collection of tax from the holders of television set or sets under Section 4 of that Act. Thereafter, under Section 4A of that Act, inserted by the West Bengal Taxation Laws (second Amendment) Act, 1983, the area of its application was extended to levy and collection of tax from the holders of video cassette recorder. The purpose of Sub-Section 4(a) of Section 4A of the Act is to levy and collection of tax from any person who provide cable service directly to consumers or transmits to a sub-cable operator through a cable television network and otherwise controls or is responsible for the management and operation of a cable television network and such person has been defined as "Cable Operator" being a taxable person exclusively for the purpose of levy and collection of entertainment tax only when a cable operator so defined receives through any electrical, electronic and mechanic device the signal of any performance, film or any other programme telecast and provides cable service directly to consumers or transmits signals to a sub-cable operator through a cable television network and otherwise controls or is responsible for the management and operation of a cable television network. The person who has been defined as cable operator exclusively for the purpose of levy and collection of entertainments tax has a direct and proximate nexus with the amusements and entertainments to the viewers at every home or place inasmuch as he is the person directly connected with presentation of entertainments to the subscribers. A person is also a "cable operators" for the purpose of Sub-Section 4(a) of Section 4A of the said 1982 Act when he receive the signal of any performance, film, or any other programme telecast and transmits such signal to a sub-cable operator through cable television network or otherwise control or is responsible for the management and operation of cable television network against payment received or receivable by him. Therefore, a cable operator is the source of entertainment to the individual subscribers because, it is he who receives the signal of performance, film, and any programme which transmitted or given to a large number sub-cable operator (although they call them as cable operator). The viewers enjoy, or are entertained by such performance, film, or programme because of receiving and transmitting video or audiovisual signals through coaxial cable or any other device by the respondents. No entertainment can be presented to the viewers unless a cable operator transmits the video and audio signals to a sub-cable operator for instantaneous presentation of any performance, film or any programme on their T.V. screen. The sub-cable operators are mere franchisees who receives signals for transmission to the viewers only on payment of price promised or paid in terms of agreements entered by and between them."

16. The aforesaid judgment in the case of M/s Purvi Communication came to the

followed by the two Judges bench in the case of Indusind Media and Communication Ltd. and anr. Vs. Mamlatdar and Ors., specifically dealing with the appellants, who were Multi System Operators like the present assessee before this Court and the two issues raised before the Supreme Court in the case of Indusind case (supra) came to be answered in the following manner by the Supreme Court in para 10.

"10. Two issues arise for our consideration in the present appeals viz.:

- i. Whether the Appellants, who are Multi System Operators, are liable to pay Entertainment Tax, and
- ii. Whether the facts and circumstances of the case warrant imposition of penalty on the Appellants.

The first issue is no longer res integra as this Court, in the case of The State of West Bengal and Others Vs. Purvi Communication Pvt. Ltd. and Others, has held that even Multi-System Operators (MSO) would be liable to pay Entertainment Tax. It is not in dispute that the Appellants are Multi-System Operators, who transmit the signals to the cable operators and in turn, the cable operators transmit signals to the subscribers. In such a way, as the Appellants are connected to an organization of the entertainment, they would be "Proprietors" as per the provisions of the Act. Hence, this issue does not need any further consideration. With regard to the second issue, it was contended by the Appellants that penalty under Section 9(3) of the Act can be imposed only if there is any willful mis-statement or suppression of facts. In the instant case, the Appellants were under a genuine belief that they would not fall under the definition of "Proprietor" under the Act and hence, imposition of penalty is unfair. It was further argued on behalf of the Appellants that the impugned order imposing the penalty is violative of the principles of natural justice as no notice was issued under Section 9 of the Act and also no opportunity of being heard was afforded to the Appellants."

17. The Allahabad High Court in Sun Direct TV Pvt. Ltd. case (supra) took the following view:-

"The charging section (Section-3) stipulates that there shall be levy on all payments for admission to any entertainment, such payment as the State Government may from time to time notify in this behalf and the tax shall be collected by the proprietor from the person making the payment for admission and paid to the Government in the manner prescribed, makes it clear that the tax is on entertainment. The entertainment under Section 2(g) includes any exhibition; performance, amusement, game, sport or race (including horse race) to which persons are admitted for payment. The emphasis in the Act is on entertainment and not the means through which such entertainment is provided to the subscriber. The performance, films or programmes shown to the viewers either by cable service or through DTH services will also squarely fall within the meaning of 'entertainment' and therefore the tax in question is within the

legislative competence of the State.

The amendments in the Act as explained in the Objects and Reasons, is by way of clarification to include the DTH service as a new technology and method within the purview of the Act, by which entertainment is provided sitting at home. Our homes have taken the place of cinema hall or theater, and the paper ticket has been substituted by subscription money. For viewing channels through DTH connection by either prepaid or post paid payments made through cash or credit cards, or by any other method, are all payments for admission to entertainment. The entertainment tax is to be collected by the proprietor and paid to the State Government in the manner prescribed. The proprietor includes in relation to the entertainment any person connected with the organization of the entertainment, or charges with the work of admission to the entertainment or responsible for, or for the time being in charge of, the management thereof under Section 2(m) of the Act.

The petitioners by delivering entertainment directly to the homes of individual subscribes down link the signals from various satellites of various TV Channels on their stations. They uplink the signals thereafter to their own Ku band designated transponders, which are then transmitted to Ku band through satellite. The dish antennas installed at the subscribers premise pick up these signals, which are decrypted in the set top box, and viewing cards provided by the petitioners. These signals are viewed by the subscribers on their TV sets. The technology is so advanced that the petitioners can stop any channel or group of channels at any time, to be viewed by the subscriber. The payment for subscription is like payment of cinema ticket either by cash or credit. The entertainment is continuous on which the subscription charges are charged on monthly or quarterly basis. The entertainment is round the clock, be it day or night. The methods of providing the contents have changed, but the object of entertainment remains the same.

The DTH system has two aspects namely service aspects and entertainment aspects, which are clearly separated and distinguishable. The former is taxed under the service tax regime and the latter is subjected to tax as an entertainment under the U.P. Act of 1979 read with Entry 62 of List II. These are two separate and distinct taxable events. There is no overlapping, and the State legislature is not denuded of its powers to levy entertainment tax on entertainment provided by either cable TV network or DTH services or any other emerging technology."

18. The aforesaid judgments in the considered opinion of this Court leaves no manner of doubt that the present assessee, a Multi System Operator, will clearly fall within the ambit and scope of the definition 'Proprietor' read with the charging provision of Section 4AA of the amended law, irrespective of the fact that there is no separate definition of such MSO, cable operator or sub-cable operator in the Rajasthan Act. A closer scrutiny of the definition of 'Proprietor', who falls within the tax net under the said law would reveal that even MSO like

the present assessee is undoubtedly a person connected with the organization of entertainment. He may or may not be a last person providing such entertainment in the chain to the ultimate subscriber/viewer and there may be one or more agency in between like cable operator or sub-cable operator in the present case. But, it is undoubted that without the transmission of satellite signals or electronic signals by the MSO to the cable operators or sub-cable operators, the ultimate consumer or viewer cannot view the entertainment. Thus, the MSO is undoubtedly an integral part of the chain of persons or agencies or organization providing such entertainment and since the definition of the "Proprietor" clearly covers such an assessee, therefore, it cannot be contended, as has been contended by the assessee, that in the absence of a specific definition in the definition clause of cable operator or Multi System Operator, they would not fall within the tax net.

19. There is another angle to counter the argument of learned counsel for the assessee. While reading the definition of 'Subscriber' in clause (11A), as quoted above, one may note that the proviso to the said definition clearly provides that in case of further transmission of signals of cable TV network, each room or premises where signals of cable television network are transmitted shall be treated as a subscriber. Therefore, even if the present assessee MSO may not have a privity of contract with the ultimate end user but qua his cable operator or sub-cable operator, who is a "subscriber" qua MSO, a service provider or entertainment provider or a proprietor providing such entertainment. Thus, by a harmonious reading of the definitions, the chain of agencies or persons providing entertainment is clearly established in the amended definitions inserted in the Act of 1957. The details of such amendments brought from time to time in the Rajasthan Entertainment and Advertisement Tax Act, 1957 having relevance for Cable Network Service are enumerated below for ready reference:-

20. The judgment cited by the learned counsel for the petitioner-assessee in the case of Tata Sky Ltd. Vs. State of M.P. and Others, is clearly not applicable in the present case as the Supreme Court in that case dealt with the DTH service provided under the particular license under the brand name of Tata Sky and for the period which was not covered by the new enactment of 2011. The Apex Court even clarified that non-exigibility of the DTH service to entertainment tax w.e.f. 5.5.2008 to 1.4.2011 is only for the period before the enactment of new law in 2011 but here in the present case undoubtedly the amended provisions of the Rajasthan Entertainment and Advertisement Tax Act, 1957 adequately and fully cover the present assessee to fall within the ambit of definition clause as well as the charging provision of the said law.

21. Thus, this Court is of the considered opinion that the controversy in hand is squarely covered on all fours by the aforesaid judgments of Hon'ble Supreme Court in the case of M/s Purvi Communication (supra), Indusind Media (supra) and the amended provisions of the Rajasthan Entertainment and Advertisement Tax Act, 1957 and the orders passed by the assessing authority in the present

cases deserve to be upheld while the orders passed by the two higher appellate authorities, namely; Deputy Commissioner (Appeals) and the Rajasthan Tax Board, deserve to be quashed and set aside. The question of law framed above is thus required to be answered against the assessee and in favour of the Revenue and accordingly it is held that the present assessee - M/s Sky Media Pvt. Ltd. would fall within the scope of charging provision of the Rajasthan Entertainments and Advertisements Tax Act, 1957 and under the retrospectively amended provisions of the Act and the present assessee would fall within the definition of 'Proprietor' as defined under Section 3(8) of the Act and is liable to entertainment tax under the charging provision of Section 4AA of the said Act of 1957.

22. The present revision petitions filed by the assessee are accordingly dismissed. No costs. Copy of this order be sent to the parties concerned and the authorities below including the Tax Board forthwith.