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**IS SPONSORSHIP MONEY SUBJECT TO LEVY  
OF ENTERTAINMENT TAX UNDER THE  
DELHI ENTERTAINMENTS AND BETTING  
TAX (DEBT) ACT, 1996.**

Dr. Justice Vineet Kothari | Adv. Mehul Kothari | March 18, 2022

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# OVERVIEW

- ❖ Sponsors & Corporates who promote MARATHONS, Cross-Country Races, may find the contents below of interest.
  - ❖ Whether such Events attract Entertainment Tax levy under DEBT Act for the period prior to introduction of GST w.e.f. 1.7.2017.
  - ❖ State Tax Authorities have taken action to impost ET (Entertainment Tax) on Sponsors' money or Donations, whether the same is justified and legal?
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## ESSENTIAL ELEMENTS FOR LEVY OF TAX

- ❖ For levy of Entertainment Tax , essential elements are:
  1. The Event should amount to 'Entertainment' .
  2. Most State Act definitions are similar. One such from Delhi Act is quoted below, for ready reference.

*"Entertainment" means any exhibition, performance, amusement, game, sport or race (including horse race) or in the case of cinematograph exhibitions, cover exhibition of news-reels, documentaries, cartoons, advertisement shorts or slides, whether before or during the exhibition of a feature film or separately, and also includes entertainment through cable service."*

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## ESSENTIAL ELEMENTS FOR LEVY OF TAX - CONTD.

- ❖ The person who pays for such 'entertainment' should be '*admitted to a place for entertainment*'.
  - ❖ There should be a 'payment for admission to the place for entertainment' as defined in the Act and such payment should be integrally connected to the admission as the condition to gain entry or admission.
  - ❖ Whether by a deeming fiction, the Sponsors' contribution can be taken to be such '*payment for admission*' into the '*place for entertainment*'.
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## FINANCING OF MARATHONS

- ❖ The Organizers of Marathons generally get their finances in two forms:
    1. Registration Fees from the Participants in the Event, against which they provide services or things like T- Shirts with or without Logos, Energy Drinks or Water enroute the Roads or passage of Marathon.
    2. Sponsors' Donations or Contributions against which they get some 'Advertisement' rights on the route to display on Flex, Boards, or put their Logos on T-Shirts etc.
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## INCLUSION BY DEEMING FICTION

- ❖ The ET Act in Delhi was amended in 2012, and an Explanation was added to include sponsors money as, 'payment for admission' to the 'place for entertainment', by a deeming fiction.
  - ❖ The challenge to the vires by way of a Writ petition is pending before Delhi High Court.
  - ❖ In the opinion of authors, firstly, Marathons cannot amount to 'entertainment', as they are essentially Health Event, or Participative Sport, which is voluntary participation of person of all age groups or all walks of life.
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## **PUBLIC ROADS IS NOT PLACE FOR ENTERTAINMENT**

- ❖ There is no 'admission' of anybody to a 'place for entertainment' i.e. public roads on which the Marathons are conducted.
  - ❖ The Registration Fees paid by the Participants is not for gaining entry to any 'place for entertainment' it is for participation in such 'participative sport' or 'Health Event'.
  - ❖ The Organizer pays applicable Service Tax on such Registration Fees, as applicable during the period prior to GST Regime.
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## CONCLUSION

- ❖ The Sponsorship contribution, donation or money is not for seeking any 'admission' to any 'place for entertainment'.
  - ❖ It is more to gain brand value or 'Advertisement space' rather than watching any entertainment like in Cinema Hall etc.
  - ❖ Law is clear that unless amount paid is integrally connected and mandatorily required to gain admission into a place for entertainment, such Tax under the State enactments framed under Entry 62 of List III of Seventh Schedule of Constitution of India cannot be levied.
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