

CAS 2022/A/9173 Ashutosh Mehta v. National Anti-Doping Agency India (NADA)

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr Jeffrey G. Benz, Attorney-at-Law and Barrister in London, United Kingdom

in the arbitration between

Ashutosh Mehta, India

Represented by Mr Vidushpat Singhania, Mr Achyuth Jayagopal, Mr Kushagra Jain, and Ms Daisy Roy, Attorneys-at-Law with Krida Legal, New Delhi, India

- Appellant -

and

National Anti-Doping Agency India (NADA), India

Represented by Mr Yasir Arafat, Law Officer, and Ms Manpreet Kaur Bhasin, Attorney-at-Law, New Delhi, India

- Respondent -

I. THE PARTIES

1. Mr Ashutosh Mehta (the “Appellant” or “Athlete”) is a professional football player of Indian nationality. At the time of the relevant doping control, he played for the India football club ATK Mohun Bagan (the “Club”) in Kolkata, India.
2. The National Anti-Doping Agency India (the “Respondent” or “NADA”) is the National Anti-Doping Organization of the Republic of India, reconized as such by the World Anti-Doping Agency (“WADA”) in accordance with the 2021 World Anti-Doping Code (“WADA Code”).
3. The Appellant and the Respondent are jointly referred to as the “Parties”.

II. THE DECISION AND ISSUE ON APPEAL

4. The Player appeals a decision rendered by the Indian Anti-Doping Disciplinary Panel (“ADDP”) on 15 September 2022 (“the Appealed Decision”) in accordance with the 2021 Anti-Doping Rules of NADA India (“NADA ADR”). The ADDP sanctioned the Player with a two-year period of Ineligibility following an adverse analytical finding (“AAF”) for Morphine belonging to the category S7 of WADA’s Prohibited List in effect in 2022 (the “Prohibited List”), which is incorporated in the NADA ADR. The Athlete is challenging the Appealed Decision in the present proceedings.

III. FACTUAL BACKGROUND

5. Below is a summary of the relevant facts and allegations based on the Parties’ written submissions and the CAS file. References to additional facts and allegations found in the Parties’ written submissions, pleadings, and evidence will be made, where relevant, in connection with the legal analysis that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments, and evidence submitted by the Parties in the present proceedings, he refers in his Award only to the submissions and evidence he deems necessary to explain his reasoning.
6. On 8 February 2022, the Athlete was selected for an in-competition urine doping control test by NADA after his Club’s match in the “Hero India Super League 2021” held in Goa, India. Therefore, he was requested to provide a urine sample for drug testing purposes, which was assigned with the reference number A6491094. The Athlete provided information of the medication taken. However, he did not declare any herbal medicine.
7. The WADA-accredited National Dope Testing Laboratory (“NDTL”) in New Delhi, India completed its analysis of the Athlete’s A-Sample and reported a certificate of analysis to the NADA, which indicated the detection Morphine (or the “Prohibited Substance”) in a concentration of 1.30 µg/mL. Morphine is listed in the 2022 Prohibited List under category S7 (“Narcotics”). It is a threshold substance. According to the WADA Technical Document TD2021Dl, the morphine threshold level is 1.00 µg/mL

and the decision limit is 1.30 µg/mL. Morphine is a specified substance prohibited in-competition.

8. On 25 March 2022, the Athlete was notified by NADA of the AAF and the potential Anti-Doping Rule Violations (“ADRV”) under Article 2.1 and 2.2 of the NADA ADR. An optional provisional suspension was not imposed on the Athlete.
9. On 2 May 2022, the Athlete informed NADA about his intention to provide substantial assistance in accordance with Article 10.7.1 of the NADA ADR. In his letter, the Athlete stated, *inter alia*, that he is in possession of “*various call recordings and witness statements that indicate at his innocence and point at his teammate’s act of providing him with a prohibited substance disguised as an Ayurvedic product.*”
10. On 24 March 2025, the Athlete provided NADA of further information regarding the alleged misconduct of his teammate Mr Amrinder Singh (the “teammate”). In this regard, the Athlete stated, *inter alia*, that he

“wishes to inform the NADA that his teammate, Mr. Amrinder Singh is in possession of Opium and that the Athlete has video evidence of the same. This information has already been conveyed to the NADA appointed investigator, but no action has been taken as the investigator claimed that his scope of authority is limited to merely the establishment of anti-doping rule violations...The Athlete pledges his assistance to whichever body the NADA refers this matter to, and is prepared to provide video evidence in his possession which clearly identifies the presence of a package containing Opium in the room occupied by Mr. Amrinder Singh i.e. Room No. 703...during the ATK Mohun Bagan team’s occupancy of the said hotel.”
11. On 15 June 2022, upon request of the Athlete, the analysis of his B-Sample (#B6491094) confirmed the results of the A-Sample.
12. On 24 June 2022, the Athlete was informed of the results of the B-Sample analysis and notified of being charged with an ADRV under Articles 2.1 and 2.2 of the NADA ADR as a result of his 8 February 2022 urine sample. The Athlete was also informed, *inter alia*, of the potential consequences of his asserted ADRV, the right to request a hearing, and the opportunity to provide substantial assistance under Article 10.7 of the NADA ADR.
13. On the same date, the Athlete accepted a voluntary provisional suspension.

IV. PROCEEDINGS before the Anti-Doping Disciplinary Panel

14. On 19 July 2022, the ADRV charges against the Athlete were submitted for determination to the members of the ADDP. The ADDP was composed of Mr Chaitanya Mahajan, Dr D.S Arya and Mr Jagbir Singh.
15. On 7 September 2022, the hearing before the ADDP took place via videoconference.

16. On 15 September 2022, the ADDP rendered the Appealed Decision.

17. The operative part of the Appealed Decision reads as follows:

“30. In view of the Facts, Circumstances, Precedents and Rules mentioned above, it is held that the Athlete has violated Article 2.1 and 2.2 of the NADA ADR, 2021, furthermore, the Panel is of the view that the anti-doping violation was unintentional and the provisions of Article 10.2.2 are attracted. We accordingly hold that the Athlete is liable for a period of ineligibility of 2 years.

31. We also direct that under Article 10.10 all other competitive results obtained by the athlete from the date of sample collection i.e., 08.02.2022 shall be disqualified all resulting consequences including forfeiture of medals, points and prizes.

32. The athlete is entitled for the credit period of provisional suspension already undergone under Article 10.13.2. The panel hereby directs that the Athlete be given credit period of his provisional suspension which he had already undergone for calculating his total period of ineligibility of two (02) years.”

18. In addition, the Appealed Decision contained the following instruction on the right to appeal:

“Please note that according to Article 13.2.2 of Anti-Doping Rules of NADA 2021, the time to file an appeal to the National Anti-Doping Appeal Panel shall be twenty one (21) days from the date of receipt of this decision by the appealing party. The appeal may be filed at the abovementioned address [i.e. the address of the ADDP].”

V. THE PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT (“CAS”)

19. On 6 October 2022, the Appellant filed his Statement of Appeal against the Respondent with respect to the Appealed Decision pursuant to Articles R47 and R48 of the CAS Code of Sports-related Arbitration (the “CAS Code”), 2021 edition.

20. On 10 October 2022, the CAS Court Office acknowledged receipt of the Appellant’s Statement of Appeal and informed the Appellant that the Statement of Appeal shall contain the nomination of an arbitrator or a request for the appointment of a sole arbitrator in accordance with Article R48 of the CAS Code. The Appellant was granted a time limit of three days to provide such information.

21. On the same date, the Appellant informed the CAS Court Office, *inter alia*, that he (i) appointed Mr Luca Fiormente or Mr Raymond Hack as arbitrator, (ii) requested to consider the Statement of Appeal as the Appeal Brief, and (iii) intended to call Mr. Subrata Pal and Mr Juan Ferrando Fenoll as witnesses.

22. On 12 October 2022, the CAS Court Office informed the Appellant that his appointed

arbitrators belong to the CAS ADD list of arbitrators and requested him to appoint an arbitrator from the CAS general list of arbitrators within three days.

23. On the same date, the Appellant nominated the following arbitrators in this matter:
 - “1. Mr. Steven Bainbridge
 2. Mr. Peter Koh
 3. Mr. Rajat Taimni
 4. Mr Efraim Barak
 5. Mr Malcolm Holmes”.
24. On 17 October 2022, the CAS Court Office informed the Respondent of the present appeal proceedings and invited the Respondent to file an Answer within twenty days from the receipt of the letter by courier in accordance with Article R55 of the CAS Code. In addition, the Parties were invited to comment on the submission of the present matter and CAS procedure *CAS 2022/A/9194 Mrs M R Poovamma v. National Anti-Doping Agency India (NADA)* to the same panel in accordance with Article R50 para. 2 of the CAS Code.
25. On 19 and 26 October 2022 respectively, the Appellant and the Respondent agreed to the submission of the present matter and *CAS 2022/A/9194 Mrs M R Poovamma v. National Anti-Doping Agency India (NADA)* to the same panel.
26. On 31 October 2022 and in the light of the Parties’ agreement, the CAS Court Office confirmed that the present matter and *CAS 2022/A/9194 Mrs M R Poovamma v. National Anti-Doping Agency India (NADA)* would be referred to the same sole arbitrator.
27. On 5 November 2022, the Respondent filed its “*Preliminary Reply by the Respondent under R55 of the Code of Sports related Arbitration*” (“Preliminary Reply”), in which the Respondent solely objected to the jurisdiction of the CAS to hear the Appellant’s appeal. The Respondent did not address any other procedural or substantive issue in its Preliminary Reply.
28. On 10 November 2022, the CAS Court Office acknowledged receipt of the Respondent’s Preliminary Reply and invited the Appellant to provide its comments on the Respondent’s objection to the jurisdiction of CAS by 18 November 2022. The CAS Court Office further informed the Parties that the time limit related to the Respondent’s Answer under Article R55 of the CAS Code was not suspended.
29. On 18 November 2022, the Appellant submitted its Response to the Respondent’s objection to the jurisdiction of CAS (“Response”).
30. On the same date, the CAS Court Office acknowledged receipt of the Appellant’s Response and informed the Parties that their submissions on the jurisdiction of CAS would be forwarded to the sole arbitrator, once appointed, for a decision in accordance with Article R55 para. 4 of the CAS Code.

31. On 31 March 2023, the CAS Court Office informed the Parties that the President of the Appeals Arbitration Division had decided to appoint Mr Jeffrey G. Benz, Attorney-at-Law and Barrister in London, United Kingdom as the Sole Arbitrator in the present procedure.
32. On 24 May 2023, the CAS Court Office informed the Parties that the time limit for the Respondent to file an Answer had expired on 9 November 2022 and that the CAS Court Office had not received the Respondent's Answer. It further reminded the Parties that the Sole Arbitrator may nevertheless proceed with the arbitration and deliver an Arbitral Award in accordance with Article R55 para. 2 of the CAS Code. The CAS Court Office further informed that Parties that they shall not be authorized to "*supplement or amend their requests or their argument nor to produce new exhibits, nor to specify further evidence on which they intent to rely, after the submission of the appeal brief and of the answer*" unless the Parties agreed or the Sole Arbitrator ordered otherwise on the basis of exceptional circumstances in accordance with Article R56 para. 1 of the CAS Code. Finally, the Parties were invited to inform the CAS Court Office, by 30 May 2023, whether they preferred a hearing to be held in this matter or for the Sole Arbitrator to render an Arbitral Award based solely on the Parties' written submissions.
33. On 30 May 2023, the Respondent referred the CAS Court Office to its Preliminary Reply and its objection to the jurisdiction of the CAS. It further informed the CAS Court Office about its preference for a hearing.
34. On the same date, the Appellant informed the CAS Court Office about its preference for the Sole Arbitrator to render an Arbitral Award based solely on the Parties' written submissions.
35. On 12 June 2023, the CAS Court Office informed the Parties that the Sole Arbitrator had decided to hold a remote hearing in this matter.
36. On 19 June 2023, based upon the Parties' respective availabilities, the Sole Arbitrator decided to hold a hearing via videoconference on 6 July 2023. Furthermore, the Parties were invited to provide the names of all persons who would be attending the hearing on their behalf by 26 June 2023.
37. On 24 and 26 June 2023 respectively, the Appellant and the Respondent provided the requested information.
38. On 30 June 2023, the CAS Court Office issued the Order of Procedure ("OoP") and invited the Parties to return a signed copy thereof.
39. On 3 and 4 July 2023 respectively, the Respondent and the Appellant returned a signed copy of the OoP.
40. On 6 July 2023, a hearing was held via videoconference. The Sole Arbitrator was assisted by Ms Andrea Sherpa-Zimmermann, Counsel to the CAS. In addition, the following persons attended the remote hearing:

For the Appellant:

- Mr Ashutosh Mehta, Athlete
- Mr Vidushpat Singhania, Counsel
- Mr Achyuth Jayagopal, Counsel
- Mr Subrata Paul, Witness

For the Respondent:

- Mr Yasir Arafat, Law Office NADA
- Ms Manpreet Kaur Bhasin, Counsel

41. At the closing of the hearing, the Parties confirmed that the Sole Arbitrator had observed their right to be heard and that they had ample opportunity to present their case.

VI. SUBMISSIONS OF THE PARTIES

42. This section of the Award does not contain an exhaustive list of the Parties' contentions, its aim being to provide a summary of the substance of the Parties' main arguments. In considering and deciding upon the Parties' claims in this Award, the Sole Arbitrator has accounted for and carefully considered all of the submissions made and evidence adduced by the Parties, including allegations and arguments not mentioned in this section of the Award or in the discussion of the claims below.

A. The Appellant's Position

43. In his Statement of Appeal dated 6 October 2022, the Athlete sought the following relief:

"In the light of the above stated, the Respondent [sic] humbly seeks and prays that:

1. The decision of the Anti-Doping Disciplinary Panel dated 15.09.2022 be quashed and the two-year period of ineligibility that was imposed on the Athlete be reviewed by this Panel on the basis of facts and evidence submitted by the Athlete herein.

2. Under the circumstances, the Athlete's period of ineligibility be reduced after such revision, to be a period of 3-6 months only.

3. The substantial assistance provided by the Athlete be taken into consideration and the benefit of the same be accrued by the Athlete pertaining to imposition of a period of ineligibility on the Athlete.

4. The credit for provisional suspension served by the Athlete be given to him in the event a period of ineligibility is imposed on the Athlete.

5. The NADA is ordered to reimburse all costs associated with the Athlete's appeal."

44. The Appellant's submissions in support of his appeal against the Appealed Decision of

the ADDP, in essence, may be summarised as follows:

1. Jurisdiction of the CAS

45. The Appellant submits that the CAS has jurisdiction to hear his appeal under Article 13.2.1 of the NADA ADR.
46. The Appellant plays in the Hero Indian Super League, which falls under the jurisdiction of the Asian Football Confederation (“AFC”). Therefore, he must be considered as an International-Level Athlete within the meaning of Article 13.2.1 of the NADA ADR.
47. The Appellant also represented his club ATK Mohun Bagan in various international football competitions, including the AFC Cup 2022, the AFC Cup Qualifiers 2022 and the AFC Cup 2021. In addition, the Appellant participated in an international match for the Indian National Men’s Football Team, which was played under the supervision of the AFC.
48. The Appellant is further of the view that the fact that he did not inform WADA of his appeal cannot result in him losing his right to appeal.

2. Appropriate Consequences of the ADRV

49. The Appellant accepts that he committed an ADRV under Articles 2.1 and 2.2 of the NADA ADR.
50. In addition, the Appellant is of the view that he bears No Significant Fault or Negligence under Article 10.6 of the NADA ADR. He has identified the medication “Kaala Daba” as the source of the Prohibited Substance. At the time of taking the said medication, he was in pain. He thought that “Kaala Daba” is an Ayurvedic medicine which only contains organic substances. Therefore, the Appellant has no reason to suspect that the medication contains Morphine.
51. The Appellant further submits that opium should be considered as a substance of abuse and, consequently, his period of ineligibility should be limited to three months. He ingested the Prohibited Substance on 7 February 2022, i.e. on the evening before the match of ATK Mohun Bagan on 8 February 2022 in Goa. Therefore, the Appellant consumed the Prohibited Substance out-of-competition and not in-competition. The Appellant has also established that his consumption of opium was unrelated to the enhancement of his sporting performance.
52. As regards the provision of substantial assistance, the Appellant submits that he is in possession of audio and video evidence, which proves his innocence and, at the same time, his teammate’s misconduct. The Appellant has also expressed his willingness to provide substantial assistance to the Respondent. He was in regular contact with the NADA-appointed investigator to assist in establishing whether his teammate had committed any criminal offence or ADRV. As a consequence, his period of ineligibility should be reduced in view of his substantial assistance provided.

B. The Respondent's Position

53. In its Preliminary Reply dated 5 November 2022, the Respondent submitted the following prayers for relief:

“10. Based on the above-mentioned grounds the respondent through this preliminary objection without prejudice to any of its legal rights and remedies submits that the Hon’ble CAS Lacks Jurisdiction in the aforesaid matter. The Failure of the athlete to comply with the provisions of WADA ISRM, 2021, make this appeal liable to be rejected.”

54. The Respondent's submissions, in essence, may be summarised as follows:

1. Jurisdiction of the CAS

55. The Respondent objects to the jurisdiction of CAS.
56. In support of its objection to CAS jurisprudence, the Respondent submits that the Athlete is neither part of an international registered testing pool nor is he regularly participating in international competitions as defined under the FIFA Anti-Doping Rules (“FIFA ADR). Accordingly, the Appellant is not an International-Level Athlete under Article 13.2.1 of the NADA ADR.
57. The Respondent further submits that he has never been designated as an International-Level Athlete by an international football federation.
58. In addition, Article 10.3 lit. b) of WADA's International Standard for Results Management states that “[w]ith respect to appeals before CAS [a]ll parties to any CAS appeal must ensure that WADA and any other party, which would have had a right of appeal and is not a party to the CAS appeal, has been given timely notice of the appeal.” The Appellant has failed to comply with this provision and, consequently, the appeal must be rejected.

2. Appropriate Consequences of the ADRV

59. The Respondent failed to file submissions on the merits of the present procedure within the granted time limit under Article R55 of the CAS Code.

VII. JURISDICTION

60. Article R47 para. 1 of the CAS Code provides as follows:

“An appeal against the decision of a federation, association or sports-related body may be filed with the CAS if the statutes or regulations of said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance

with the statutes or regulations of that body.”

61. The Respondent has objected to the jurisprudence of CAS. According to Article R55 para. 4 of the CAS Code, the Sole Arbitrator shall rule on his own jurisdiction (*Kompetenz-Kompetenz*).
62. The Sole Arbitrator notes that the Parties’ dispute regarding the jurisdiction of the CAS revolves around the question whether the Athlete is an International-Level Athlete or a National-Level Athlete. What is undisputed between the Parties is that the applicable regulations in this case are the NADA ADR, which deal with the question of jurisdiction of an appeals body in its Article 13.2 as follows:

“13.2.1 Appeals Involving International-Level Athletes or International Events

In cases arising from participation in an International Event or in cases involving International-Level Athletes, the decision may be appealed exclusively to CAS.

13.2.2 Appeals Involving Other Athletes or Other Persons

In cases where Article 13.2.1 is not applicable, the decision may be appeal to the National Anti-Doping Appeal Panel...”.

63. It is undisputed between the Parties that the alleged ADRV did not occur in an International Event. Therefore, the CAS has jurisdiction to hear the Athlete’s appeal if the Athlete falls within the scope of an International-Level Athlete under Article 13.2.1 of the NADA ADR. In case the Athlete cannot be qualified as an International-Level Athlete, Article 13.2.2 of the NADA ADR confers jurisdiction to the National Anti-Doping Appeal Panel with the consequence that the CAS would not have jurisdiction over the Athlete’s appeal. The Athlete, who bears the burden of establishing that he is an International-Level Athlete on the balance of probability (cf. Article 3.1 of the NADA ADR), submits that he is an International-Level Athlete. In turn, the Respondent argues that he is a National-Level Athlete.
64. The starting point of this assessment is the definition of “International-Level Athlete” in the NADA ADR:

“International-Level Athlete: Athletes who compete in sport at the international level, as defined by each International Federation, consistent with the International Standard for Testing and Investigations.”

65. The *Fédération Internationale de Football Association* (“FIFA”), i.e. the International Federation for the sport of football, defines “International-Level Athlete” in the FIFA ADR (2021 edition) as follows:

“[A] Player designated by FIFA or a Confederation as being within FIFA’s or the Confederation’s Registered Testing Pool and/or a Player who participates regularly in International Competitions (as defined in these Regulations) and/or

Competitions under the jurisdiction of the Confederation.”

66. It is undisputed between the Parties that the Athlete was not part of either FIFA’s or any Confederation’s Registered Testing Pool. Therefore, the Athlete would fall within the scope of an International-Level Athlete if he would participate regularly in International Competitions.
67. The FIFA ADR defines the term of International Competitions as follows:

“[a] Competition where the International Olympic Committee, the International Paralympic Committee, an international federation, a Major Event Organisation, or another international sports organisation is the ruling body for the Competition”.
68. At the outset, the Sole Arbitrator is not persuaded by the submissions of the Respondent that the Appellant should have filed any licence or other designation issued by an international football federation in order to prove his status as an International-Level Athlete. The Respondent was unable to refer the Sole Arbitrator to any provision in the WADA Code, the FIFA ADR or the NADA ADR indicating that such a designation is in fact issued by international football federations. Instead, the above-mentioned definitions refer only to participation in International Competitions, without any confirmation from FIFA or any Confederation.
69. In turn, the Athlete has provided evidence that he participated in two FIFA friendly matches against Oman and the United Arab Emirates on 25 March 2021, respectively, 29 March 2021. He was also participated in three matches of the AFC Cup between 21 and 24 August 2021. Both the FIFA friendly matches and the AFC Cup constitute International Competitions within the meaning of the above-mentioned definition. The Athlete further participated in an AFC Cup qualifying playoffs match on 12 April 2022 for 22 minutes and in an AFC Cup match on 18 May 2022 for 38 minutes. Accordingly, the Athlete also participated for a brief time at an international level in April and May 2022. However, the Athlete has not provided any evidence regarding his regular participation in International Competitions at the time of sample collection on 8 February 2022, i.e. at the time when the alleged ADRV occurred. In fact, it appears that between March 2021 and April 2022, the Athlete did not participate in any International Competition. This raises the question of which point in time is decisive in determining whether an athlete is an International-Level Athlete or a National-Level Athlete.
70. To determine the relevant time for the determination of an International-Level Athlete, the wording of the above-mentioned definitions must be considered. Article 13.2.1 of the NADA ADR states that the CAS has jurisdiction *“in cases involving International-Level Athletes”*, which could indicate that the Athlete must have a status of an International-Level Athlete at the time when the Statement of Appeal was filed with the CAS in September 2022.
71. However, if one considers the definitions of an International-Level Athlete in both the NADA ADR (*“Athletes who compete in sport”*) and the FIFA ADR (*“a Player who*

participates regularly in International Competitions”), then it can be observed that both definitions refer to the present tense regarding an athlete’s participation in international competitions. This wording therefore suggests that the Athlete must have been an International-Level Athlete at the time of sample collection on 8 February 2022, i.e. the time when the alleged ADRV occurred.

72. This interpretation of the definitions of the NADA ADR and the FIFA ADR is also supported by the opinion of the CAS panel in CAS 2018/A/5853 at para. 84:

“[T]he Panel notes the present tense in the definition. This seems to indicate that a player – in order to qualify as an international-level player – must have participated at the relevant time (i.e. when the anti-doping rule violation occurred) in an international competition. This interpretation based on the wording of the definition is further backed by a construction of the provisions based on its spirit and purpose. Qualifying an athlete as international-level player in case he participated sometimes during his career in a single international competition would cast the net far too wide. If one were to follow such approach, any player participating in an international event would never lose his or her status as an international-level player. He or she would remain an international-level player even if the international competition dates back several years. This, however, would render the first limb of the definition meaningless, since players included in FIFA’s or a Confederation’s Registered Testing Pool most certainly would have participated (at some point in time) in an international competition.”

73. Against this background, the Sole Arbitrator comes to the conclusion that the relevant time for determining whether or not the Appellant is an International-Level Athlete is the time when the anti-doping violation occurred. In the present matter, the Athlete’s urine sample was collected during an in-competition test on 8 February 2022. At that time, he had not participated in any International Competition for more than ten months.
74. However, the Sole Arbitrator is of the view that not every brief interruption may result in a change of an athlete’s status from an International-Level Athlete to a National-Level Athlete/Other Athlete and *vice versa*. This would cause legal uncertainty regarding the competent appeal body in anti-doping matters. Instead, the question of whether an athlete qualifies as an International-Level or Other Athlete must be examined on a case-by-case basis, taking into account the circumstances of each individual case. In this regard, the cautionary message of the CAS panel in CAS 2018/A/5853 must also be kept in mind: *“Qualifying an athlete as international-level player in case he participated sometimes during his career in a single international competition would cast the net far too wide.”*
75. In light of the above, the Sole Arbitrator finds that the Athlete cannot be qualified as an International-Level Athlete. The semantic formulation of the definition of an International-Level Athlete in the NADA ADR and the FIFA ADR indicate that the period between an athlete’s participation in International Competition should be short. The applicable regulations are silent on the exact period after which an athlete would

lose their status as an International-Level Athlete if they only participate at a national level for a certain period. Whether a period of approx. five months, i.e. the period between the Athlete's last international match and the day of sample collection, is in itself sufficient to establish that the Athlete was no longer an International-Level Athlete appears at least questionable.

76. In the present case, however, the period between the last participation in an International Competition and sample collection is not the only condition to be taken into account for determining whether the Appellant is an International-Level Athlete. It must also be considered that an athlete should not obtain the status of an International-Level Athlete merely by participating in International Competitions on a sporadic basis. Rather, the definition of an International-Level Athlete in the FIFA ADR refer to a regular participation. According to the Cambridge Dictionary, regularly means "*at repeated times, with equal or similar amounts of time between one time and the next*".
77. In light of this definition and the circumstances of the present case, the fact that (i) the Athlete had only competed in approx. five international matches in March and August 2021, (ii) he had not competed in any international match for more than five months prior to sample collection, and (iii) he only participated in international matches for a total of 55 minutes after that, it cannot be concluded that he participated regularly in international competitions. To conclude that these facts are sufficient to qualify the Appellant as an International-Level Athlete would overreach the intended scope of Article 13.2.1 of the NADA ADR. The Appellant's brief appearance at the international level does not mean that he meets the criteria of an International-Level Athlete under Article 13.2.1 of the NADA ADR.
78. Taking into account the specific circumstances of the present case and given due consideration to the applicable definitions of an International-Level Athlete, the Sole Arbitrator concludes that the Athlete was not an International-Level Athlete at the time the alleged ADRV occurred.
79. Consequently, the Sole Arbitrator finds that the CAS has no jurisdiction to entertain the present appeal.

VIII. COSTS

(...)

* * * * *

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Court of Arbitration for Sport has no jurisdiction to entertain the appeal filed on 6 October 2022 by Ashutosh Mehta against the decision rendered on 15 September 2022 by the Anti-Doping Disciplinary Panel.
2. (...).
3. (...).
4. All other or further motions or prayers for relief are dismissed.

Seat of the arbitration: Lausanne, Switzerland

Date: 28 July 2025

THE COURT OF ARBITRATION FOR SPORT

Jeffrey G. Benz
Sole Arbitrator