
(2006) 08 MP CK 0001
In the Madhya Pradesh High Court

Agrawal Colour Photo Industries

APPELLANT

Vs

Asstt. Commr. of Cus. and C. Ex.

RESPONDENT

Date of Decision : 14-08-2006

Acts Referred:

Citation : (2007) 8 STR 3

Hon'ble Judges : A.K. Patnaik, C.J;Sushma Shrivastava, J

Bench : Division Bench

Judgement

1. Heard Mr. Sumit Nema, Advocate, for the petitioner and Mr. Rajesh Upadhyaya, Advocate for the respondents.
2. Mr. Rajesh Upadhyaya states that Mr. O.P. Namdeo, Advocate, will appear for the respondents.
3. Issue notice.
4. Mr. Rajesh Upadhyaya, Advocate, on behalf of Mr. O.P. Namdeo, Advocate, accepts notice for the respondents.
5. Extra copy of the petition with annexures be served on the respondents.
6. Mr. Sumit Nema, learned Counsel appearing for the petitioner states that the demand of service tax pursuant to the order dated 25-11-2005 (Annex. P/11) of the Assistant Commissioner, Customs & Central Excise Division, Jabalpur, has been upheld by the order dated 17-4-2006 (Annex. P/13) of (the Commissioner (Appeals), Customs & Central Excise, Bhopal, on the whole turnover of the petitioner relating to processing and exposing of colour photographic film, is contrary to the law laid down by the Supreme Court in the case of Bharat Sanchar Nigam Ltd. and Another Vs. Union of India (UOI) and Others, in particular in paragraph 49 thereof at page 32 of the said decision as reported in the SCC. He further submitted that the petitioner has already paid the service tax on 30% of the turnover which represents the services to the customers of the petitioner, the remaining 70% being transfer of property in goods.

7. In view of the aforesaid submissions made by Mr. Sumit Nema, we direct that the demand of Service tax for the period from 16-7-2001 to 31-3-2005 in dispute in the writ petition shall remain stayed till the matter is taken up again in presence of Mr. O.P. Namdeo, counsel appearing for respondents.

8. The writ petition be listed on 30-8-2006.

C.C. as per rules.