(1999) 04 SC CK 0011

In the Supreme Court Of India

Case No : C.A. No. 4372 of 1984

State of M.P. and Another APPELLANT

Vs

Smt. Abha Sethi RESPONDENT

Date of Decision : 28-04-1999

Acts Referred:

Citation : AIR 1999 SC 2271 : (1999) AIRSCW 2325 : (1999) 2 JLJ 117 : (1999) 3 JT 416 : (1999) 3 SCALE 168 : (1999) 4 SCC 32 : (1999) 2 SCR 930 : (1999) 4 Supreme 452 : (1999) 2 UJ 930

Hon'ble Judges : S. S. M. Quadri, J;S. Rajendra Babu, J;S. P. Bharucha, J;M. B. Shah, J;B. N. Kirpal, J

Bench : Full Bench

Advocate : S. K. Agnihotri, Madhur Dadlani and Sapam Biswajit Mistel and Sarwa Mitter, for Mitter and Mitter Co. in W.P. No. 12221/8, for the Appellant; S. K. Gambhir and R.B. Mishra (NP), for the Respondent

Final Decision : Disposed Of

Judgement

1. The State of Madhya Pradesh is in appeal against orders of the Madhya Pradesh High Court that followed its earlier judgment in W.P. No. 567/81, Harrish Wilson v. State of M.P, and held that video games located in video parlors were not liable to entertainment tax under the M.P. Entertainments Duty and Advertisement Tax Act, 1936, on the ground that what entertains a person in the video parlour is his own performance and not the exhibition, performance, amusement, game or any sport offered by the proprietor of the video parlour. The payment that was made was only to provide the payer with tools for deriving pleasure from his own performance and that payment did not amount to a payment for admission to an entertainment.

2. The judgment in the case of Harrish Wilson was noticed by this Court mite case of Geeta Enterprises and Others Vs. State of U.P. and Others, and it was held that important aspects had been completely overlooked. The pivotal conclusions reached in that judgment did not appeal to this Court. The mere fact

that payment was not made at the time of entering the video parlour was irrelevant; payment made at a later stage by inserting a coin was nonetheless for being admitted to a place of entertainment. The fee being charged in a different manner at a different stage was in any case for providing entertainment. The decision in Harrish Wilson' case was, therefore, in terms disapproved of.

3. When the special leave petitions out of which these appeals arise came up for hearing, a Division Bench of this Court, on 5th November, 1984, observed that the view taken in the case of Geetha Enterprises required reconsideration.

4. The case of Geetha Enterprises has been followed by this Court in Standard Games etc. Vs. State of U.P. and others etc., . In any event, we have read the judgment in the case of Geetha Enterprises and are in agreement therewith. No reconsideration thereof is, in our view, required.

5. Following the judgment in the case of Geetha Enterprises, the appeals are allowed and the orders under appeal are set aside. The writ petitions upon which those orders were passed are dismissed. No order as to costs.