

(2011) 01 SC CK 0144
In the Supreme Court Of India
Case No : Civil Appeal No. 465 of 2011

UPSRTC

APPELLANT

Vs

Commissioner of Central Excise and Service Tax

RESPONDENT

Date of Decision : 12-01-2011

Acts Referred:

Finance Act, 1994 — Section 65

Citation : (2011) 186 ECR 165 : (2011) 30 STT 402

Hon'ble Judges : Mukundakam Sharma, J; Anil R. Dave, J

Bench : Division Bench

Advocate : Rajiv Dutta, Garima Prashad, Laxmibai L. and Pradeep Kumar, for the Appellant; Gourab Banerjee, Rashmi Malhotra and B. Krishna Prasad, for the Respondent

Final Decision : Dismissed

Judgement

1. Leave granted.

2. We have heard the learned Counsel appearing for the parties and have also scrutinized the records placed before us. The Appellant herein filed a writ petition before the Allahabad High Court, Lucknow Bench, challenging the communication of the Respondents sent to the Appellant herein requesting to supply the list of contractual assignment entered into between the private parties who have offered their buses on rent basis to the Appellant. In the said writ petition, the contention that was raised by the Appellant was that no service tax could be imposed by the Respondents on the buses hired by the Appellant in view of the fact that no service tax is imposed by the Respondents on the buses owned and possessed by the Appellant and, therefore, similar treatment is also to be afforded to the buses hired by the Appellant. It is contended that although recourse is taken and reliance is placed on Section 65 of the Finance Act, 1994 so as to demand payment of service tax from the owner of the buses, yet according to the Appellant the said provision is not applicable so far as the Appellant is concerned.

3. The contentions of the Appellant were taken notice of by the High Court and by the impugned judgment and order in U.P. State Road Transport Corporation v. CCE and ST (2011) 30 STT 398 (All.) passed by the High Court, the writ petition was dismissed holding that the Appellant is not the aggrieved party and cannot come in aid of the private bus operators so as to stall the endeavour and effort of the Respondents in collecting service tax from the private bus operators, although, the same have been hired by the Appellant in terms of the Motor Vehicles Act.

4. The aforesaid findings are challenged before us by the Appellant. On going through the record, however, we find that no notice was issued by the Respondents to the Appellant demanding payment of service tax from it. According to the Respondents, the liability to pay such service tax under the provisions of Section 65 of the Finance Act is that of the private bus operators show-cause notices were also issued to the private bus operators by the Respondents which are also placed on record.

5. In that view of the matter, we find no reason to interfere with the order passed by the High Court holding that the Appellant has no locus standi to file the present appeal as also the writ petition. Since payment of such tax is demanded from the private bus operators, if anybody is really aggrieved, it is the private bus operators. In our considered opinion, if any challenge is to be made to such notice issued by the Respondents, the same has to be done by the aggrieved party like the private bus operators. It is only they who can challenge the issuance of the aforesaid notices by taking recourse to the appropriate remedy as provided under the Finance Act, 1994. In case, the said aggrieved parties take recourse to such statutory remedy, they would be entitled to take and urge all issues which may be available to them in accordance with law. The said issues as and when raised shall be considered and decided in accordance with law.

6. With the aforesaid observations, the appeal stands disposed of.