

Advertisement Tax not leviable on signboards displaying Business information

The Hon'ble Supreme Court in the case of *M/s. Harsh Automobiles Pvt. Ltd. v. Indore Municipal Corporation [Civil Appeal No. 5362 of 2023 dated October 09, 2023]*, held that the signboard affixed for displaying general information about the company would not come within the purview of Advertisement, therefore Advertisement Tax cannot be levied by the Municipal Corporation.

Facts:

M/s. Harsh Automobiles Private Limited (**"the Appellant"**) is engaged in the business of dealership of Hyundai Passenger Cars operating from the premises occupied in Indore and other places. The Appellant has affixed a signboard, displaying the trade name and business in the premises where business is being conducted.

Municipal Corporation, Indore, (**"the Respondent"**) issued a Show Cause Notice dated July 4, 2015 (**"the Impugned Notice"**), raising a demand of the amount of Rs. 2,03,850/- for recovery of Advertisement Tax claiming that the Advertisement Tax has to be paid on the display of signboards at its premises. Objections were filed by the Appellant against the Impugned Notice on the ground that the Appellant has affixed a signboard for disseminating knowledge to the general public about the Appellant's business details and products manufactured.

Aggrieved by the Impugned Notice, the Appellant filed a writ petition before the Hon'ble Madhya Pradesh High Court, Indore Bench [*WP (C) 1842 of 2016*] for setting aside the demand raised for the Advertisement Tax. The High Court, relying upon the judgement of *Bharti Airtel v. State of Madhya Pradesh [WP (C) No. 2296 of 2012 dated January 12, 2015]*, vide order dated October 24, 2017 (**"the Impugned Order"**) dismissed the writ petition, holding that, the Appellant is liable to pay the Advertisement tax on the signboard, displaying the trade name and business, affixed in the said premises.

Aggrieved by the Impugned Order, the Appellant filed an appeal before the Hon'ble Supreme Court for setting aside the demand of payment of Tax raised through Impugned Notice.

Issue:

Whether the Appellant is liable to pay Advertisement Tax on the signboard affixed disseminating knowledge about the Appellant's business details and products manufactured?

Held:

The Hon'ble Supreme Court in **Civil Appeal No. 5362 of 2023** held as under:

- Observed that, the judgement of **Bharti Airtel vs. State of Madhya Pradesh (Supra)** deciding upon the issue of recovery of the Advertisement Tax from the Appellant, would not be applicable to facts stated in the Impugned Order.
- Further observed that, as per Section 132(6)(1) of the Madhya Pradesh Municipal Corporation Act, 1956 ("**the MPMC Act**"), the Municipal Corporation is empowered to collect tax on advertisements other than advertisements published in newspapers by passing of a resolution under Section 133(1) of the MPMC Act.
- Relying upon the judgement of **ICICI Bank and Another vs. Municipal Corporation of Greater Bombay [Civil Appeal No. 4678 of 2005 dated August 4, 2005]** wherein the Court held that, the advertisement should have some commercial display or solicitation of customers towards the product or service prominently shown in advertisement to attract the attention of people to the business.
- Opined that, the signboards affixed by the Appellant in the premises are to disseminate general information to the public about the products dealt by the Appellant. In the absence of a signboard, it would be impossible for customers to identify the business.
- Held that, as per Section 132(6)(1) of the MPMC Act, the Respondent is not empowered to demand the Advertisement Tax on signboards displaying general information and if demanded would be without any authority of law and in violation of Article 19 and 265 of the Constitution of India.

- Directed the Respondent, to examine the objections filed by the Appellant to dispose of the Impugned Notice expeditiously within eight weeks of receipt of the order of the Court.

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