

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) _____ OF 2017
[D.NO.7460/2017]

COMMISSIONER OF CENTRAL EXCISE
AND SERVICE TAX, RAIPUR ...APPELLANT(S)

VERSUS

SINGH TRANSPORTERS ...RESPONDENT(S)

ORDER

1. Delay condoned.
2. We have heard Shri A.N.S. Nadkarni, learned Additional Solicitor General appearing for the appellant.
3. The issue involved in the present appeal is whether the goods i.e. coal transported by the respondent - Singh Transporters from the pit-heads to the railway sidings would fall within taxable service as defined under Section 65(105)

(zzzy) of the Service Tax Act of 1994 [for short "the Act") or as defined under Section 65(105) (zpz) of the Act.

4. The aforesaid two provisions of the Act are in the following terms.

"65. Definitions:

.....

(105) "taxable service" means any service provided or to be provided,-

.....

(zpz) to any person, by a goods transport agency, in relation to transport of goods by road in a goods carriage;

.....

.....

(zzzy) to any person, by any other person in relation to mining of mineral, oil or gas;"

5. Though the learned Customs Excise & Service Tax Appellate Tribunal, New Delhi ("Tribunal" for short) in answering the issue in favour of the respondent leading to the present proceedings has relied upon

its earlier judgment in the case of M/s V.N. Transport Vs. CCE, Raipur¹, Arjuna Carriers Pvt. Ltd. vs. Commissioner of Service Tax² it is argued that the said decisions may not be relevant to the present case inasmuch as the same pertains to a period prior to 1st June, 2007 and the present case pertains to the post 1st June, 2007 period. The difference in time is relevant in view of the insertion of Section 65(105)(zzzy), extracted above, effective from 1st June, 2007.

6. Be that as it may, even if the relied upon judgment in the case of Arjuna Carriers (supra) is of no consequence to the present case, we are of the view that the activity undertaken by the respondent i.e. transportation of coal from the pit-heads to the railway sidings within the

1 [2016 - TIOL - 1510- CESTAT -DEL]

2 [2016 (41) S.T.R. 632 (Delhi)]

mining areas is more appropriately classifiable under Section 65(105)(zzp) of the Act, namely, under the head "transport of goods by road service" and does not involve any service in relation to "mining of mineral, oil or gas" as provided by Section 65(105)(zzzy) of the Act.

7. The reliance placed on the definition of the term 'mines' under Section 2(j) of the Mines Act, 1952 does not assist the Revenue inasmuch as what would be indicated by the said definition is that a mine is not to be understood necessarily in respect of pit-heads of the mining area or the excavation or drilling underground, as may be, but also to the peripheral area on the surface. The said definition has no apparent nexus with the activity undertaken and the service rendered

8. For the aforesaid reasons, we find no merit in this appeal(s). The appeal(s) is accordingly dismissed.

.....,J.
(RANJAN GOGOI)

.....,J.
(NAVIN SINHA)

NEW DELHI
JULY 07, 2017

ITEM NO.26

COURT NO.4

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO. (S) _____ OF 2017
[DIARY NO(S) . 7460/2017]

COMMISSIONER OF CENTRAL EXCISE AND
SERVICE TAX, RAIPUR

APPELLANT(S)

VERSUS

SINGH TRANSPORTERS

RESPONDENT(S)

[WITH APPLN.(S) FOR STAY AND C/DELAY IN FILING APPEAL(S)]

Date : 07-07-2017 This appeal(s) was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE NAVIN SINHA

For Appellant(s)

Mr. A.N.S. Nadkarni, ASG
Ms. Shirin Khajuria, Adv.
Ms. Prerna Kumari, Adv.
Mr. B. Krishna Prasad, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

The appeal(s) is dismissed in terms of the
signed order.

(VINOD LAKHINA)
AR-cum-PS

(ASHA SONI)
BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]