

Pankaj Khare v. Union Of India Thru. Secy. Deptt. Of Custom And Cgst, Ministry Of Finance, New Delhi And Others

WRIT TAX No. 148 of 2023 | Decision: 2023-06-07 | Allahabad High Court (Lucknow Bench)

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Neutral Citation No. - 2023:AHC-LKO:40387-DB

Court No. - 2 Case :- WRIT TAX No. - 148 of 2023 Petitioner :- Pankaj Khare Respondent :- Union Of India Thru. Secy. Deptt. Of Custom And Cgst, Ministry Of Finance, New Delhi And Others Counsel for Petitioner :- Yogesh Chandra Srivastava Counsel for Respondent :- Dipak Seth

Hon'ble Alok Mathur,J. Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri Yogesh Srivastava, learned counsel for petitioner as well as Sri Sri Dipak Seth, learned counsel for respondents.
2. The petitioner by means of present writ petition has challenged the order dated 22.05.2023 passed by Dy. Commissioner, CGST & Central Excise Div. Lucknow - 1, Lucknow thereby assessing the petitioner with regard to service tax and levying tax and interest to the tune of Rs. 332651/-.
3. Learned counsel for petitioner has assailed the said order stating that the same is illegal and arbitrary and without jurisdiction.
4. He submits that as per Notification dated 20.06.2012 the service tax admitted for any individual advocate is nil for services rendered to any business entity situated in the taxable territory. The petitioner is a practicing advocate and as such he was exempted from service tax.
5. At the very outset, Sri Dipak Seth, learned counsel for respondents has produced before this Court an order dated 06.06.2023 whereby the respondents have themselves dropped the proceedings against the petitioner. The said order is taken on record.
6. During hearing a number of members of the Bar have informed this Court that similar notices have been issued to the various members of the Bar. This Court expresses its concern that practicing advocates should not have to face harassment on account of the department issuing notices and calling upon them to pay service tax/GST when they are exempted from doing so and in the process also calling them to prove that they are practicing advocates.
7. The Commissioner, GST is directed to issue clear direction to the GST Commissionerate in Lucknow that no notices

regarding payment of service tax /GST is issued to the lawyers rendering legal service falling in the negative list so far as service tax is concerned.

7. With the above observations and directions, the writ petition is disposed of.

(Jyotsna Sharma, J.) (Alok Mathur, J.) Order Date :- 7.6.2023 Ravi/

2023-06-07T16:18:19+0530 High Court of Judicature at Allahabad, Lucknow Bench