

Punjalal G. Dave Realtors LLP	}	Petitioner
versus		
Union of India and Ors.	}	Respondents

Chembur Developers Association	}	Petitioner
versus		
Union of India and Orgs.	}	Respondents

Siddhivinayak Constructions	}	Petitioner
versus		
Union of India and Ors.	}	Respondents

WRIT PETITION NO. Man Realtors }
and Holdings Pvt. Ltd. and Ors. } Petitioner
versus
Union of India and Ors. } Respondents

Mr. Milind More – Additional Government Pleader for respondent no. 4 in WP Nos. 1327/2016, 1694/2016, 1817/2016 and for respondent no. 3 in WP/1719/2016.

**CORAM :- S. C. DHARMADHIKARI &
PRAKASH. D. NAIK, JJ.**

DATED :- MARCH 27, 2017

P.C. :-

1. We do not think that the petitioners, who claim to have throughout indulged in an activity resulting in a transfer of title in goods or movable property, by way of a sale, should apprehend that mere issuance of a circular, copy of which is annexed as Annexure 'A', would straight away result in a demand being raised. Even if the demand is raised, the pre-requisite of its confirmation would necessitate a show cause notice raising that demand containing specific allegations based on the applicability of law to the activity of the petitioners. Therefore, whether the petitioners' business activity amounts to service as understood by section 65(44) of Chapter V of the Finance Act, 1994 cannot be decided with the aid or assistance only of such circulars. Without specific allegations, a full opportunity to defend them and participate in the adjudication proceedings followed by a reasoned or speaking order, on the strength of the circular alone, the petitioners should not apprehend any recoveries. The challenge is, therefore, clearly premature. The challenge is not based on the concrete steps taken by the Revenue post issuance of this circular dated 30th January, 2015. Hence, keeping every

such challenge, as raised in the petitions, open, we dispose of the writ petitions.

(PRAKASH.D.NAIK, J.)

(S.C.DHARMADHIKARI, J.)