IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR, NAGPUR.
...

WRIT PETITION NO. 3512 OF 2010

Tristar Retail Pvt.Ltd. And another ..**Petitioners**

versus

The Union of India and Others ..**Respondents**

Mr. N.B. Kalwaghe, Advocate for Petitioner
Ms. Mugdha Chandurkar, Advocate for Respondent No.1
Mr S.N. Bhattad, Advocate for Respondent Nos. 2 and 3
...

CORAM: NITIN JAMDAR &
ANIL L. PANSARE,JJ
DATED : 04 MAY 2022.

P.C. :

Heard learned Counsel for the parties.

2. This writ petition is filed for calling in question the legality and constitutional validity of the provisions of Section 65 (105) (zzzz) of the Finance Act, 1994 as amended by Section 76 of the Finance Act 2010 (Act No.14 of 2010) dated 8 May 2010 whereby the transaction of “renting of immovable property” is brought within the ambit of “taxable service” and it is made liable to tax under the provisions of the service tax matrix of the Finance Act 1994, as now amended, with retrospective operation from 1 June 2007.

3. In short, the Petitioners seek to contend that the service tax cannot be levied in respect of rent of immovable property in furtherance of use of business for commercial purposes.

4. The Respondents have placed on record the decision of the Division Bench of this Court, in the case of *Retailers Association of India vs. Union of India*[1], wherein the Division Bench has repelled the challenge levied to the impugned provisions. The challenge, at the instance of Retailers Association of India is pending before the Hon'ble Supreme Court in SLP (C) No.27245 of 2011. As on today, the decision of the Division Bench holds the field. The factum of applicability of the decision of Division Bench to the facts of the present case is not in dispute.

5. In light thereof, no purpose would be served in keeping this petition pending. Following the ratio laid down in the case of Retailers Association (supra), we dispose of this petition. Rule is discharged. No order as to costs.

[ANIL L. PANSARE,J.] [NITIN JAMDAR,J.]

sahare

1 2011(5) Mh.L.J.660