

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 7684/2019

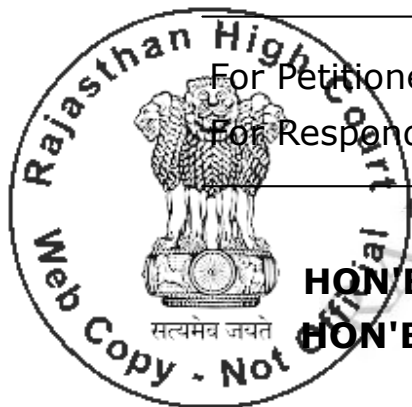
Aravali Minerals and Chemical Ind. Pvt. Ltd.

----Petitioner

Versus

Union of India & Ors.

----Respondents



For Petitioner(s) : Mr. Tribhuvan Gupta

For Respondent(s) : ----

**HON'BLE THE CHIEF JUSTICE S. RAVINDRA BHAT
HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI**

Order

02/07/2019

1. The petitioner is impugning show cause notice issued to it on the ground that the proposed levy of service tax is not legally valid. In support of this argument, it is submitted that w.e.f. 01.07.2017, the legal regime has changed with the introduction of the Central Goods and Service Tax Act, 2017 which by Section 174 repealed the Finance Act, 1994. It is also submitted that the basis for show cause notice appears to be some audit comments or objections, which cannot be the valid premise for imposition of the levy and collection of tax.

2. This Court by its judgment in Udaipur Chambers of Commerce and Industry & Ors. vs. Union of India & Anr. (D.B. Civil Writ Petition No.14578/2016) decided on 24.10.2017, upheld the levy of service tax under the Finance Act, 1994. The service tax was introduced for the first time on minerals w.e.f. 1.4.2016. The legality of that development, was the subject matter of

decision in Udaipur Chambers (supra) when the levy and collection of service tax on that activity was upheld. Post the introduction of the Central Goods and Service Tax Act, the Finance Act has been repealed. Nevertheless, Section 174(2)(c) prima-facie seems to preserve the levy in so far as any liability to pay tax was incurred by the individual or concern, prior to its enactment w.e.f. 1.7.2017.

3. In these circumstances, this Court is of the opinion that the present writ petition cannot be maintained. It is, however, open to the writ petitioner to raise all contentions including the levy and extent of levy of service tax and other submissions which it wish to press before the concerned adjudicating officer. In that event, the said authority shall grant proper and reasonable opportunity and deal with each of such contention in a reasoned order to be made in accordance with law.

4. The writ petition is disposed of accordingly.

(DR. PUSHPENDRA SINGH BHATI),J

(S. RAVINDRA BHAT),CJ

Zeeshan/-

सत्यमेव जयते