

All India Federation of Tax Practitioners and Others v. Union of India and Others

Civil Appeal No. 7128 of 2001

[2007] 9 SCR 147 | 2007-08-21

Legislative competence for service tax on chartered accountants, cost accountants and architects

Constitution of India: Articles 245, 246(1), 248, 265, 268A and 276 | Constitution of India, Seventh Schedule: List I Entries 92C and 97; List II Entry 60 | Finance Act, 1994: Chapter V, including sections 65, 66, 67, 68, 71, 72, 73 and 83 | Finance (No. 2) Act, 1998 | Constitution (Eighty-eighth Amendment) Act, 2003

Two-judge Bench; judgment delivered by S. H. Kapadia, J. | S. H. Kapadia, J. | B. Sudershan Reddy, J.

Historical service-tax and constitutional setting

The decision addresses the Finance Acts of 1994 and 1998 and the constitutional text discussed by the Court in 2007. Verify later constitutional and GST developments before applying the reasoning to a present levy.

Limited constitutional issue

The Court decided Parliament's legislative competence and expressly recorded that the validity of the Constitution (Eighty-eighth Amendment) Act, 2003 was not challenged before it.

Headnote separated from judicial reasons

The first portion of the scan is an editorial headnote. The note's holdings and operative result follow Kapadia, J.'s numbered reasons beginning on SCR 152 / PDF p. 6.

01 FACTS OF THE CASE

The Finance (No. 2) Act, 1998 extended service tax to professional services supplied by practising chartered accountants, cost accountants and architects, with notifications later adjusting exemptions. The Federation challenged the levy before the Bombay High Court, arguing that taxes connected with professions belonged exclusively to the States under Entry 60 of List II and Article 276. The High Court rejected the challenge on 22 February 2001. In the resulting civil appeal, the Federation accepted that the impost was a tax on services rather than directly on service providers but contended that a professional service could not be separated from the profession itself. The Union answered that profession tax concerned the professional's status, whereas service tax attached to activities undertaken for consideration.

Source: [Appeal, background and parties' competence arguments / PDF pp. 6-14](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court characterised service tax as a value-added, destination-based consumption tax on the provision of a marketable service. Applying the principle of equivalence, it compared value addition through professional activity with value addition through production of goods, while keeping the taxable events legally distinct. It held that an annual Finance Act may introduce a fresh charge or make enduring changes, subject to constitutional limits. For competence, the Court separated general legislative entries from specific taxing entries and applied schematic interpretation, aspect theory and pith and substance. Entry 60 of List II concerned a tax on the status or privilege of remaining in a profession, payable even without client work. The impugned tax instead arose on each activity or contract for consideration. Article 276 preserved and limited the State profession-tax field; it did not make services synonymous with professions. Accordingly, Entry 60 and Parliament's Entry 97 field operated in different spheres. The Court regarded Article 268A and Entry 92C, inserted in 2003, as fortifying that conclusion for the constitutional text then discussed, while making clear that the amendment's own validity was not challenged.

Source: [Meaning of service tax and competence analysis / PDF pp. 15-25](#)

03 JUDICIAL DECISION

The Court held that Parliament had legislative competence under Entry 97 of List I to impose service tax by the Finance Acts of 1994 and 1998 on the specified professional services. Profession tax under Entry 60 of List II was a tax on status or privilege; service tax was on the taxable activity provided to a client. The two were not synonymous or constitutionally identical. The Eighty-eighth Amendment's Article 268A and Entry 92C were treated as confirming the distinct fields, without adjudicating any challenge to that amendment. The appeal therefore failed.

Source: [Profession/service distinction and final holding / PDF pp. 20-25 and 29-30](#)

04 OUTCOME / IN WHOSE FAVOUR

Civil Appeal No. 7128 of 2001 was dismissed with no order as to costs. The Bombay High Court's rejection of the legislative-competence challenge therefore stood. The Court granted no refund, remand or exemption and did not decide a constitutional challenge to the Eighty-eighth Amendment.

Source: [Conclusion and operative dismissal / PDF pp. 29-30](#)

05 AKHB REVIEW POINT

AKHB analysis: when testing legislative competence, identify the true taxable event and separate a tax on professional status from a tax on an activity supplied for consideration. Labels and dictionary meanings do not replace the constitutional scheme, the distinction between general and taxing entries, or pith-and-substance analysis. For present work, first identify the applicable constitutional text and enactment for the relevant period; the 2007 service-tax setting cannot be transferred automatically to GST or another current levy. Preserve the judgment's express limit that the constitutional validity of the Eighty-eighth Amendment was not before the Court.

Source: [Primary reasoning underlying AKHB analysis / PDF pp. 15-30](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

The complete 30-page report was read. The reporter's headnote runs from SCR 147 through the upper portion of SCR 152 / PDF pp. 1-6. Counsel and jurisdictional metadata then appear on SCR 152 / PDF p. 6, followed by Kapadia, J.'s numbered judicial reasons through SCR 176 / PDF p. 30. The cited cases, quoted constitutional provisions and submissions are distinguished from the Court's own holdings. No adjoining judgment is included.

Open cited source rendition

The downloaded 30-page source exactly matches catalogue SHA-256
d0ee26f7f50e13ca74a12912523e66ded8d5e7fbfcb9a33200c172ecdf222330.

All pages were read in contiguous, untruncated ranges PDF pp. 1-8, 9-16, 17-24 and 25-30; the final holding and dismissal were read on PDF pp. 29-30.

Published corpus and archived-reviewed searches found no matching party identity, Civil Appeal No. 7128 of 2001, decision date or exact source hash. The catalogue entry remains a pending source record rather than another publication.

This is an in-scope merits judgment on the constitutional competence to levy service tax; the Income-tax Act discussion at SCR 163-164 / PDF pp. 17-18 is an analogy drawn from Madurai District Central Co-operative Bank, not an income-tax dispute in this appeal.

The scan contains one judgment only; cited decisions and reproduced constitutional provisions are not separate source matters.

No current-law or comprehensive later-treatment conclusion has been inferred from the 2007 primary source.

STATUTORY SCOPE

The judgment concerns the historical service-tax regime under the Finance Acts of 1994 and 1998 and the constitutional text discussed by the Court in 2007. It should not be presented as a current GST-law clearance or as deciding the validity of every levy on professional services. Subsequent constitutional amendments, statutory changes and later judicial treatment require separate verification.

LATER TREATMENT

Source checked 2026-10-13. No comprehensive later-treatment or current-law check has been completed. The note reports the judgment and constitutional provisions as considered on 21 August 2007 and does not claim that the historical service-tax framework remains operative in the same form.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary source; independent human review is not represented.

PROFESSIONAL DISCLAIMER

General legal and tax research only; not legal or tax advice. Verify the complete judgment, applicable statutory version and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding. No current-law clearance is claimed.