

January 30, 2012

To,
All Members of MCHI

Dear Member,

Sub: High Court, O.O.C.J.
Writ Petition No. 1456 of 2010
Maharashtra Chamber of
Housing Industry & Anr. ... Petitioners
V/s.
Union of India & Ors. ... Respondents

MCHI filed a Petition challenging the amended Finance Act 2010 and explanations to be unconstitutional, void and ultra virus and it being beyond the legislative competence of Articles 14 etc.

The above matter reached for final hearing on 17th January 2012. Shri J. J. Bhatt & Shri Milind Sathe, Sr. Counsels appeared on behalf of MCHI as instructed by M/s. Parimal K. Shroff & Co., Solicitors. Shri Daraius Khambatta, Additional Solicitor General appeared on behalf of the Government.

The matter was hotly contested. After considering the submissions by all the counsels and the case laws, Their Lordship the Hon'ble Dr. Justice D. Y. Chandrachud & Hon'ble Mr. Justice A. A. Sanyal by a reasoned judgment dismissed the Writ Petition on 20th January 2012. It is held by the Hon'ble High Court that the Service Tax is not levied on the purchase of land. It is a tax on rendering the services to construct the buildings, complexes alongwith other services like laying of drainage, water pipes and incidental services thereto. These are construction related activities on land and therefore the service tax is applicable. In case of preferred location, if no separate charge is levied, the liability to pay Service Tax does not arise and it is only where a particular service is separately charged for that the liability to pay Service tax arises. Therefore, the Government is within its power to levy service tax. The Writ Petition is dismissed by a separate Judgment dated 20th January 2012. A copy of the judgment is annexed.

In view of this all the members are advised to pay service tax directly to the Service Tax department. For any further clarification you may call upon Mr. C. P. Goyal on: **022-42121421 or 9322507593.**

Thanking you,

Yours truly,
For Maharashtra Chamber of Housing Industry

Sd/-
Boman Irani
Hon. Secretary

Encl : As above