

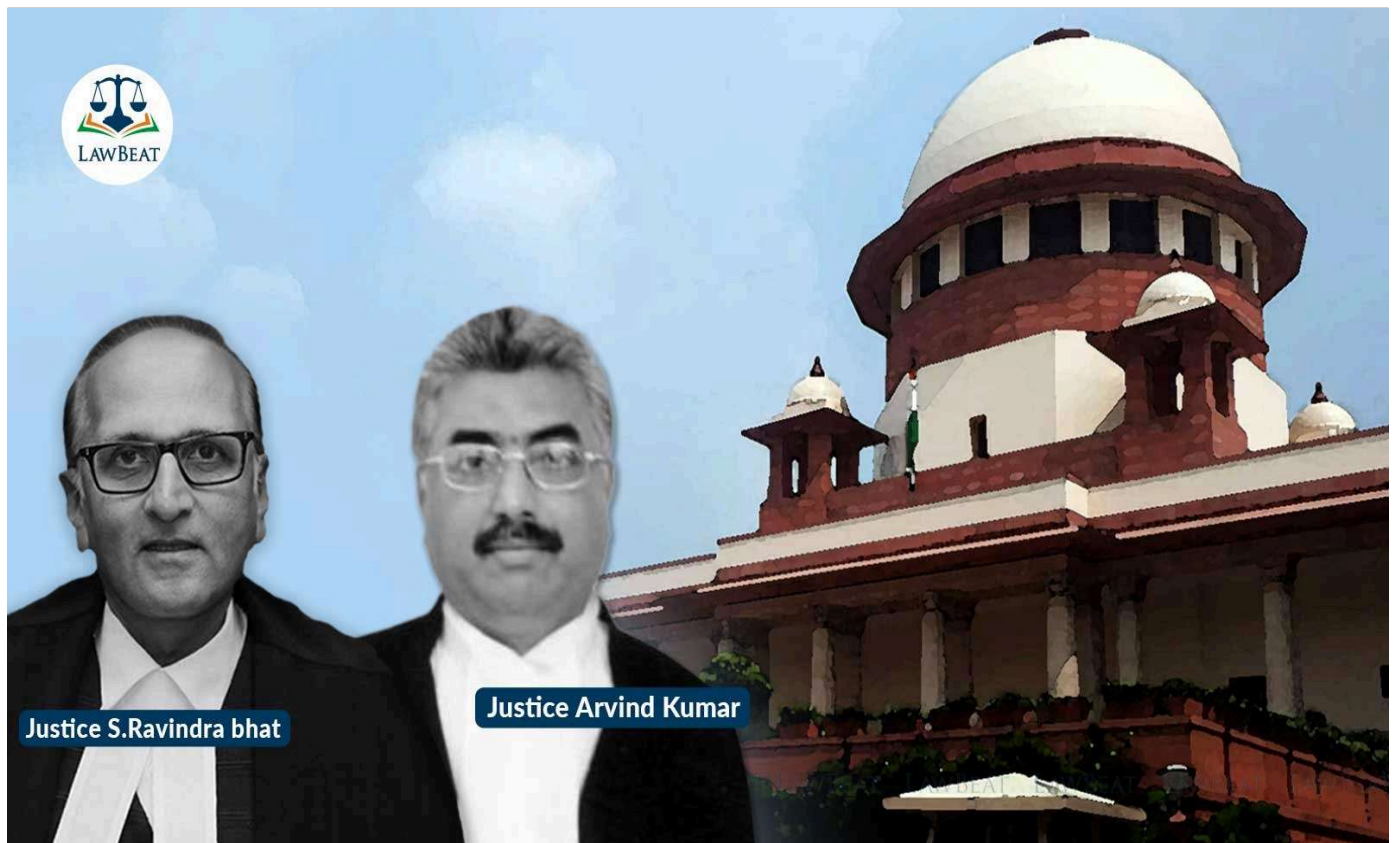
Municipal authorities can't impose advertisement tax on sign boards: Supreme Court

Supreme Court says in the absence of display of name board or sign board either by a business establishment or any other establishment including public offices and professionals or schools or colleges etc, it would drive the potential customer to such a situation where it would be neigh impossible to identify the business establishment from which the potential customer proposes to buy

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The Supreme Court has said municipal authorities cannot impose tax on such business establishments which put on sign boards on its premises displaying the products dealt in by them.

A bench of Justices S Ravindra Bhat and Aravind Kumar has said that by mere mentioning the name of the product in which the business establishment is being run would not partake the character of the advertisement until and unless by such display customers are solicited.

"In the absence of the display of the name board or sign board either by a business establishment or any other establishment including public offices and professionals or schools or colleges etc, it would drive the potential customer to such a situation where it would be neigh impossible to identify the business establishment from which the potential customer proposes to buy," the bench said.

However, if the sign boards so displayed would in any manner promote a particular product or goods or services or in other words it would attract customers to purchase a particular brand of product or goods or services and such display provides information about the product/ services and solicit the customers, it may amount to advertisement while the latter would only be an information to the public, the bench added.

The court accordingly directed the Indore Municipal Corporation to adjudicate upon demand notices issued to M/s Harsh Automobiles Private Limited and M/s Sanghi Brothers (Indore) Private Limited with regard to advertisement tax on display boards put on their premises.

The appellants contended that if putting up of a sign board at its own premises for identification purposes or for the customers to know the identity of the premises would amount to advertisement then sign name boards of all business establishments, Government officers, public sector undertakings, sign boards put up by professionals like Doctors, Advocates, Engineers, Architects, Consultants, schools, colleges, hotels, restaurants etc. would also fall within the ambit of advertisement and would be liable to pay advertisement tax.

Non-putting up of sign board displaying the name of the firm would result in the public or the customer making an extensive research and survey for buying a particular product or availing the services which the appellants were to provide, they added.

The Municipal Corporation submitted if the sign board which has the purpose to make publicly known and information which is covered under the definition of “advertisement”, it would amount to display for commercial exploitation.

Referring to Municipal Corporation Act and the by-laws, the bench said the statutory provisions do not empower the Municipal Corporation or its agency to demand tax for display of information through name boards or display boards.

It would emerge from the statutory provisions that the legislative intent was never to impose tax liability on sign boards but only on advertisement, it said.

"Prima facie, the sign boards are display boards displayed by the appellants' companies in the instant appeals would indicate that they have displayed on their respective premises the general information to the public about the products being dealt with by them and it would not reflect any soliciting of customers or induce the general public to buy the products dealt by the appellants and displayed on the board," the bench said.

"Even in such circumstances, if it is held that it amounts to advertisement, such levy would be without authority of law and would find foul of Article 19(1)(a), 19(1)(g) and Article 265 of the Constitution of India," it added.

Case Title: M/S Harsh Automobiles Private Limited vs. Indore Municipal Corporation

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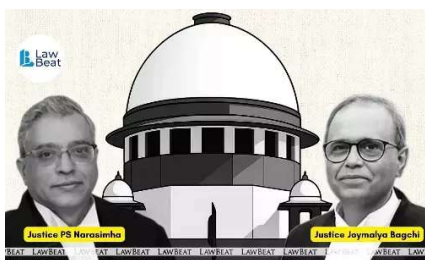
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