

**Ajanta Fabrication Vs. Cce**

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**SooperKanoon Citation :** [sooperkanoon.com/40364](http://sooperkanoon.com/40364)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Sep-26-2005

**Judge :** R Abichandani, M T K.C.

**Appellant :** Ajanta Fabrication

**Respondent :** Cce

**Judgement :**

1. The authorities below have subjected the activity of the appellant to service tax under the head 'Advertising Agency' under Section 65 (1), at the relevant time. According to the learned Consultant, the hoardings were prepared as per the design supplied to the appellant and these were placed at places intimated to the appellant. The appellant did not, therefore, function as 'Advertising Agency'. This contention cannot be accepted at this stage, because it is clear, prima, facie, that the appellant was making hoarding which is included in the definition of "advertisement". It is stated before us that the appellant paid sales tax on the entire amount and, therefore, he cannot be held liable to pay the tax, again under the head taxable service. He also submitted that material was used for preparing the hoardings The value whereof ought to have been deducted.

2. It does appear from the impugned order that authority did not direct itself at all to the aspect, whether the value of the material used for preparing the hoarding was required to be deducted for working out the tax payable in respect of the services rendered by the appellant for making the hoardings and installing them at different places.

3. Having regard to the facts and circumstances of the case, we, therefore, direct that there will be interim stay of the impugned order, on the condition that the appellant makes a pre-deposit of Rs. 8,000/- within four weeks. On that being done pre-deposit of the rest of the amount payable under the impugned order shall stand waived. If, however, the amount is not so deposited, the appeal will stand dismissed. This application stands disposed of accordingly. Compliance to be reported on 31.10.2005.

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