

**Ram Kishan Vs. Union of India (Uoi)**

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**SooperKanoon Citation :** [sooperkanoon.com/488708](http://sooperkanoon.com/488708)

**Court :** Allahabad

**Decided On :** Jan-04-2001

**Reported in :** 2001(130)ELT431(All); 2006[2]STR317; [2007]6STT110

**Judge :** Sudhir Narain and ;Bhagwan Din, JJ.

**Acts :** [Finance Act, 2000](#) - Sections 65, 65(6) and 116

**Appeal No. :** Civil Misc. Writ Petition No. 6 of 2001

**Appellant :** Ram Kishan

**Respondent :** Union of India (Uoi)

**Judgement :**

1. The petitioner has challenged the notice of demand dated 20-9-2000 (Annexure-1) to the writ petition demanding from it service tax. The petitioner claims that it is carrying on business of sale and manufacture of Bidies in the name and style of M/s. Ram Kishan Daya Ram as a registered partnership firm at Gursahaiganj, Kannauj. It is not transporting any goods and therefore, is not liable to pay any service tax.

2. Section 116 of the [Finance Act, 2000](#) has amended clause (6) in Section 65 of the Act No. 32 of 1994 which reads as under :

'(a) in Section 65 -

(i) For clause (6), the following clause had been substituted, namely :-

(6) 'assessee' means a person liable for collecting the service tax and includes -

(i) his agent; or

(ii) in relation to services provided by a clearing and forwarding agent, every person who engages a clearing and forwarding agent and by whom remuneration or commission (by whatever name called) is paid for such services to the said agent; or

(iii) in relation to services provided by a goods transport operator, every person who pays or is liable to pay the freight either himself or through his agent for the transportation of goods by road in a goods carriage.'

3. The learned counsel for the respondents contended that the petitioner is not covered by clause (iii) of Sub-section (6) of Section 65 of the Act (as amended) and it is not liable to pay any freight either itself or through its agent for the transportation of goods by road in a goods carriage.

4. The contention of the learned counsel for the petitioner is that the petitioner is only manufacturing Bidies and is not covered by clause (iii) of Sub-section (6) of Section 65 of the Act. It is further contended that the service tax has to be realised keeping in view the provisions of clause 16 of Section 65 of the Act.

5. The petitioner has only been given a notice in regard to the payment of the service tax. He can file an objection before the Superintendent, Central Excise Range, Gursahaiganj, District Kannauj, respondent No. 2. On such an objection being made, the respondent No. 2 shall decide the same by a reasoned order after affording opportunity to the petitioner, within six weeks from the date of its submission. In case the petitioner submits its objection within two weeks from today, as indicated above, the respondent No. 2 shall not enforce its order till the objection is decided.

6. The writ petition is, accordingly, disposed of finally.

