

Supreme Court stays levy of service tax on lawyers

The court tagged the matter with similar petitions

The Supreme Court on Monday stayed the Bombay high court order dismissing a challenge to the levy of service tax on lawyers.

A bench comprising chief justice H.L. Dattu, justice Amitava Roy and justice Arun Mishra tagged the matter with similar petitions before the apex court. It also stayed the high court order of 15 December.

High court bar associations from Andhra Pradesh, Guwahati, Chennai and Delhi have challenged the levy of service tax on lawyers as per Section 65 of the Finance Act, 2011. This provision seeks to levy service tax on fees paid by clients to lawyers.

Within four days of its introduction, it was stayed by the Delhi high court.

The petition, a copy of which *Mint* has reviewed, states that the imposition of the tax is oppressive, unjust, unreasonable and ultra vires (beyond legal authority) of the right to equality and freedom to carry on a trade or profession. It argues that the relationship between a client and lawyer must not be seen as that of a service provider and a client as the lawyer is merely a representative of his client.

The petition strongly condemned the hasty manner in which the Bombay high court had addressed the issue as the levy, being in the nature of a federal tax, could not vary in various jurisdictions.

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