

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.8537 OF 2009

THE STATE OF HIMACHAL PRADESH & ORS.APPELLANT(S)

VERSUS

M/S. JIWAN SINGH JOGINDER SINGHRESPONDENT(S)

O R D E R

We have heard learned counsel appearing for the parties and perused the record.

We find that the impugned judgment dated 14.03.2008 passed by the High Court in C.W.P. No.298 of 1997 cannot be allowed to stand. The High Court had entertained the writ petition, in spite of an alternative remedy, because the constitution validity of the Section 5A of the Himachal Pradesh General Sales Tax Act, 1968 (for short, the 'Act'), was questioned. However, once the writ petitioner before the High Court gave up the question of constitutional validity of the said section as it did, we see no reason why the High Court should have decided the matter on merits as has been done.

In the course of hearing, Mr. Tarun Gulati, learned Senior Counsel appearing for the respondent, states that the respondent would file an appeal as provided under section 30 of the Act.

Mr. Abhinav Mukerji, learned Additional Advocate General for the appellant - State, submits that the appellant has no objection to such filing of appeal by the respondent.

According, we direct the appeal if so, filed within 10 weeks by the respondent shall not be dismissed on the ground of limitation and it shall be decided as early as possible in accordance with law.

Needless to mention that all points are left open except the constitutional validity of Section 5A of the Act.

Recording the above, the instant appeal is partly allowed and disposed of.

.....CJI
[S.A. BOBDE]

.....J
[SANJIV KHANNA]

.....J
[SURYA KANT]

NEW DELHI;
NOVEMBER 20, 2019.

ITEM NO.102

COURT NO.1

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.8537/2009

THE STATE OF HIMACHAL PRADESH & ORS.

Appellant(s)

VERSUS

M/S. JIWAN SINGH JOGINDER SINGH

Respondent(s)

Date : 20-11-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE SURYA KANT

For Appellant(s) Mr. Abhinav Mukerji, AOR
 Mrs. Bihu Sharma, Adv.
 Mrs. Pratishtha Vij, Adv.
 Mr. Samarth Khanna, Adv.

For Respondent(s) Mr. Tarun Gulati, Sr. Adv.
 Mr. Rony Oommen John, AOR
 Mr. Piyush Swami, Adv.
 Mr. Kumar Sambhau, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The instant appeal is partly allowed and disposed of in terms of the signed order.

Pending interlocutory applications, if any, stand disposed of.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

(Signed Order is placed on the file)