

The State Of Himachal Pradesh vs M/S. Jiwan Singh Joginder Singh

20 November, 2019

CIVIL APPEAL NO.8537 OF 2009

Bench : HON'BLE THE CHIEF JUSTICE S.A. BOBDE HON'BLE MR. JUSTICE SANJIV KHANNA HON'BLE MR. JUSTICE SURYA KANT

Legislation cited: Section 5A of the Himachal Pradesh General Sales Tax, Act.

Held: 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 Signature Not Verified Digitally signed by SANJAY KUMAR Date: 2019.11.30 Senior Counsel appearing for the respondent, states that 12:00:55 IST Reason: 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.



Legality Viability

BEST SHOT at success !!