

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

CIVIL APPEAL NOS. 3452-3454 OF 2003

STATE OF RAJASTHAN & ANR.

Appellant (s)

VERSUS

M/S. GULJAG INDUSTRIES LTD.

Respondent(s)

(With office report)

WITH Civil Appeal NO. 285 of 2004

(With office report)

Civil Appeal NO. 286 of 2004

(With office report)

Civil Appeal NO. 3674 of 2006

(With office report)

Date: 30/09/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN

HON'BLE MR. JUSTICE H.L. DATTU

For Appellant(s) Dr. Manish Singhvi, AAG
In CA 3452-54/03, Mr. D.K. Devesh, Adv.
285 &286/04 Mr. Sahil S Chauhan, Adv.
Mr. Milind Kumar, Adv.

In CA No. 3674/06 Mr. Puneet Jain, Adv.
Mr. Sushil Kumar Jain, Adv.

For Respondent(s) Mr. S. Ganesh, Sr. Adv.
In CAS.3452-54/03 Mr. Annam D.N. Rao, Adv.

In CA 285,286/04 Mr. Vijay K. Jain, Adv.

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

CIVIL APPEAL NOS. 3452-3454/2003

Civil Appeals stand disposed of in terms
of the signed order with no order as to costs.

Original record may be sent back.

...2/-

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CIVIL APPEAL NOS. 285/2004 and 286/2004

At the request of learned counsel for the
respondent, list on 5th October, 2010.

CIVIL APPEAL NO. 3674 OF 2006

The appeal is dismissed in terms of the
signed order.

(VINOD LAKHINA)
Court Master

(KUSUM GULATI)
Court Master

(TWO SIGNED ORDERS ARE PLACED ON THE FILE)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3452-3454 OF 2003

STATE OF RAJASTHAN & ANR.

...APPELLANTS

VERSUS

M/S GULJAG INDUSTRIES LTD.

...RESPONDENT

ORDER

Mr. S. Ganesh, learned Senior Counsel, appearing on behalf of the respondent - dealer submits that since the main grievance of the appellant - State is against the High Court's entertaining a writ petition under Article 226 of the Constitution of India against the show cause notices dated 1st September, 2000 and then permitting the dealer to amend the writ petition after assessment order dated 21st September, 2000 in respect of Assessment Year viz., 1997-98 had been passed, the dealer has no objection if the impugned judgment is set aside and they are permitted to file Statutory appeal under Section 84 of the Rajasthan Sales Tax Act, 1994 (for short "the said Act") before the First Appellate Authority. He, however, prays that the delay in

...2/-

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preferring the appeal, which has occasioned on account of the pendency of the writ petition, writ appeal as well as the present appeals, may be condoned, and the Appellate Authority may be directed to decide the appeal(s) on merits.

Dr. Manish Sighvi, learned AAG, appearing

on behalf of the State, has no objection to the suggestion made by learned counsel for the respondent - dealer.

Accordingly, with the consent of learned counsel for the parties, the impugned judgment and order dated 30.8.2002 is set aside and it is directed that if the respondent files appeal in respect of the Assessment Year 1997-98 before the Appellate Authority within four weeks from today, the Appellate Authority shall consider and decide the appeal on merits without reference to the period of limitation. It will be open to the parties to file further documents/evidence, on which they propose to place reliance.

..3/-

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Insofar as Assessment Years 1995-96 and 1996-97 are concerned, it is pointed out that because of the interim stay granted by the learned single judge, assessments in respect of the said years could not be completed. If that be so, we permit the respondent - dealer to file comprehensive replies to the show cause notices. Thereafter, it will be open to the Assessing Authority to pass Assessment Orders in respect of the said Assessment Years in accordance with law.

As regards the question of payment of additional demand created by virtue of the Assessment Order passed by the Assessing Authority for the assessment year 1997-98 is concerned, if so advised, we permit the dealer to move an appropriate application before the

Authority concerned in terms of Section 42(4) of the said Act. We are confident that the said Authority will consider the application having regard to the background of the case and the fact that the respondent - dealer had succeeded before the High Court.

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It is also brought to our notice that during the pendency of these appeals, fresh assessment orders dated 4th September, 2002 in respect of the afore-mentioned three Assessment Years have been passed. In light of the above order, the said Assessment Orders shall be treated as non-est.

The Civil Appeals stand disposed of in the above terms with no order as to costs.

....., J.
(D.K. JAIN)

....., J.
(H.L. DATTU)

NEW DELHI
SEPTEMBER 30, 2010
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3674 OF 2006

ASSISTANT COMMISSIONER
COMMERCIAL TAXES, BIKANER,
RAJASTHAN

...APPELLANT

VERSUS

M/S BIKANER SUPPLY CENTRE
K.E.M. ROAD, BIKANER, RAJASTHAN

...RESPONDENT

ORDER

Having regard to the amount of the revenue involved in this appeal, we are not inclined to

interfere with the impugned judgment.

Accordingly, the appeal is dismissed on that short ground keeping open the question of law involved.

....., J.
(D.K. JAIN)

....., J.
(H.L. DATTU)

NEW DELHI
SEPTEMBER 30, 2010