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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.673 OF 2005

M/S.G.S.PHARMBUTOR PVT. LTD.

APPELLANT(S)

VERSUS

STATE OF RAJASTHAN & ORS.

RESPONDENT(S)

O R D E R

1. This appeal is directed against the judgment and order passed by the High Court of Rajasthan at Jaipur in D.B.C.M.S.No.2032 of 2004 and D.B.C.W.P.NO.2292 of 2004, dated 22.04.2004.

2. The appellant herein is a dealer registered under the provisions of the Rajasthan Sales Tax Act, 1994 ('the Act' for short) and is calling in question the correctness or otherwise of the orders passed by the High Court in D.B.Civil Writ Petition No.2292 of 2004. In the aforesaid Writ Petition, the appellant has sought for the following reliefs :
 - "(i) Declare the provisions of Section 84(3) of the Rajasthan Sales Tax Act, 1994 that provides 10% of deposit of tax and other amount for entertainment of appeal as ultra vires of the Constitution.

 - (ii) Declare the action of respondent no.5 in assumption of jurisdiction as illegal, arbitrary and further hold that the respondent no.5 have no jurisdiction to pass assessment order in the matter.

 - (iii) Declare the order passed by the respondent no.4 as totally arbitrary and without considering the provisions of law.

 - (iv) Quash/set aside the assessment orders passed by the respondent no.5 I.e. Annexures 3,4 and 5.

 - (v) Such further relief for which the petitioners are entitled under the circumstances may also be awarded including cost of petition."

3. The High Court has not accepted any one of the reliefs sought for by the appellant. The assessee is therefore before us in this appeal.

4. While entertaining the Special Leave Petition, this Court, on 20.05.2004, had granted interim stay of the orders passed by the High Court, subject to the petitioner's depositing 5% of the demand.

5. We are informed by Shri Jayant Bhushan, learned senior counsel appearing for the appellant that the appellant has complied with the interim orders passed by this Court on 20.05.2004.

6. By virtue of Section 84(3) of the Act, the assessee, if it wants its appeal to be entertained by the appellate authority, it has to deposit 10% of the disputed tax.

7. The appellant has already deposited 5% of the demand, we now direct the appellant to deposit another 5% of the disputed tax within three months' time from today. If such deposit is made by the appellant within the time granted by this Court, we direct the appellate authority, before whom the appeal is pending against the orders of assessment for the assessment years 2001-02, 2002-03 and 2003-04, to dispose of the appeal within two months' time thereafter, since the matter is pending before the first appellate authority for the last one decade.

8. With these observations, the Civil Appeal is disposed of.

9. All the contentions of both the parties are left open.

Ordered accordingly.

.....J.
(H.L. DATTA)

.....J.
(DIPAK MISRA)

.....J.
(S.A. BOBDE)

NEW DELHI;
JANUARY 09, 2014
ITEM NO.112

COURT NO.3

SECTION IIIA

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(s). 673 OF 2005

M/S G.S.PHARMBUTOR PVT.LTD.

Appellant (s)

VERSUS

STATE OF RAJASTHAN & ORS.

Respondent(s)

(With office report)

Date: 09/01/2014 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE S.A. BOBDE

For Appellant(s) Mr.Jayant Bhushan, Sr.Adv.
Mr.Anurag Dubey, Adv.
Ms.Anu Sawhney, Adv.
Mr.Meenesh Dubey, Adv.
Mr. S.R. Setia,Adv.

For Respondent(s) Mr.Shovan Mishra, Adv.
Mr. Milind Kumar,Adv.

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

The appeal is disposed of, in terms of the signed order.

(G.V.Ramana)
Court Master
(signed order is placed on the file)

(Vinod Kulvi)
Asstt.Registrar