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SLP(C)No. 13318 OF 2000

ITEM No.34

Court No. 3

SECTION III
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.13318/2000
(From the judgement and order dated 27/01/2000 in SBSTR 1050/99
of The HIGH COURT OF RAJASTHAN AT JODHPUR)

COMMERCIAL TAXES OFFICER

Petitioner (s)

VERSUS

DERBY TEXTILES LTD

Respondent (s)

(With prayer for interim relief and Office Report)

Date : 20/04/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MRS. JUSTICE RUMA PAL

For Petitioner (s)

Mr. Sushil Kumar Jain, Addl. Adv. Genl., Raj.
Mr. A P Dhamija, Adv.

For Respondent (s)

Mr. Sujit K Singh, Adv.
Mr. S.B. Upadhyay, Adv.

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

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Special leave granted.

The appeal is allowed in terms of the signed order.

No costs.

(D.P. WALIA)
Court Master

(S.L. GOYAL)
Court Master

(Signed Order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001@@
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[arising out of S.L.P.(C) No.13318 of 2000]

Commercial Taxes Officer ..Appellant(s)

vs.

Derby Textiles Ltd. ..Respondent(s)

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Special leave granted.

We have heard the learned counsel for the parties.

Notice in this case had been issued under Section 12 of the Rajasthan Sales Tax Act seeking to re-assess the tax in respect of the accounting year 1st January, 1988 to 31st December, 1988. The notice was issued on 15th March, 1995. After the re-assessment order was made, the respondent filed an appeal before the Deputy Commissioner (Appeals), but without success. Thereupon, on a second appeal being filed by the respondent, the same was allowed by the Rajasthan Tax Board. The matter was then taken to the High Court by the appellant by way of revision which was dismissed by the High Court by holding that the assessment year in question was 1988-89 and the limitation for re-opening had expired on 31st March, 1994. Hence, the re-assessment made was quashed.

It is evident that the High Court has erred in coming to the conclusion that the assessment year in question was 1988-89. The documents on record clearly show that the accounting year of the respondent was the calendar year, namely, 1st January, 1988 to 31st December, 1988. The

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'previous year' has been defined in Section 2(m) which reads as under:

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"'previous year' means the twelve months ending on the 31st day of March next preceding the assessment year, or, if the accounts of a dealer have been made upto a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then, at the option of the dealer, the year ending on the date upto which his accounts have so been made up;"

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The assessment year in respect of the calendar year 1988, which was the accounting year of the respondent, can only be the year which commences on the 1st day of April after

the end of the accounting year. This being so, the assessment year in respect of the calendar year 1988 could only be 1989-90 and, therefore, the notice for re-assessment issued on 15th March, 1995 was within the period of limitation.

The decision of the High Court is contrary and is, therefore, set aside. This appeal is allowed accordingly. No costs.

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.....J.
(B.N. KIRPAL)

.....J.
(RUMA PAL)

New Delhi;
April 20, 2001.