

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(s).20860/2009

(From the judgement and order dated 24/09/2008 in SBSTR No.  
401/2008 of The HIGH COURT OF RAJASTHAN AT JAIPUR)

ASSISTANT COMMERCIAL TAXES OFFICER Petitioner(s)  
VERSUS

M/S RADHEY SALES CORP. Respondent(s)  
(With prayer for interim relief )

Date: 20/01/2011 This Petition was called on for hearing today.

CORAM :  
HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA  
HON'BLE MR. JUSTICE ANIL R. DAVE

For Petitioner(s) Dr.Manish Singhvi, AAG,  
Mr.D.K.Devesh, Adv.  
Mr. Irshad Ahmad,Adv.

For Respondent(s)  
Mrs. Sudha Gupta,Adv.

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

Leave granted.  
The appeal is allowed in terms of the signed order.

(KUSUM SYAL) (RENU DIWAN)  
SR. P.A. COURT MASTER

(Signed Order is placed on the file)  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 838 OF 2011  
(Arising out of SLP(C)No. OF 20860 OF 2009)

ASSISTANT COMMERCIAL TAXES OFFICER Appellant(s)  
VERSUS

M/S RADHEY SALES CORP. Respondent(s)

O R D E R

Leave granted.

We have heard the learned counsel appearing for the parties on this appeal challenging the order dated 24.09.2008 passed by the Rajasthan High Court dismissing the S.B. Sales Tax Revision Petition No. 401 of 2008.

Our attention is drawn by the learned counsel appearing for the appellant to the impugned order which is annexed to the appeal. A bare perusal of the said order would indicate that the said order is cryptic and a non-speaking order. Neither any reasons are given by the High Court nor any finding is recorded for arriving at the conclusion.

In this connection, we may refer to the decision of this Court reported in Assistant Commercial Tax Officer versus Ruhumal Jeevandas (2010) 6 SCC 748 wherein this Court has set aside an identical cryptic order passed by the same High Court in an identical manner. It is held in the said decision that

the order passed was cryptic and suffer from basic infirmity of non application of mind and non speaking orders in law. Even if the High Court was of the opinion that no interference was called for, it was required to record its reasons for arriving at the said conclusion. Same being the nature and type of the decision in this case also, we set aside the order passed by the High Court and remit back the matter to the High Court for hearing the case de novo.

The appeal is allowed to the aforesaid extent.

.....J  
(DR.MUKUNDAKAM SHARMA)

.....J  
( ANIL R.DAVE)

NEW DELHI  
January 20, 2011