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In the Madhya Pradesh High Court

Case No : Writ Appeal No. 138 of 2007

Annapurna Industries Unit II — APPELLANT

Vs

Deputy Commissioner — RESPONDENT

Date of Decision : 04-02-2014

Acts Referred:

Citation : (2014) 71 VST 267

Hon'ble Judges : Shantanu Kemkar, J;Mool Chand Garg, J

Bench : Division Bench

Advocate : H.Y. Mehta, Advocate for the Appellant; Mini Ravindran, Deputy Government Advocate, Advocate for the Respondent

Judgement

Shantanu Kemkar, J.—By filing this intra court appeal, the appellant has assailed the order dated January 29, 2004 (Annapurna Industries Unit-II Vs. Deputy Commissioner, Commercial Taxes and Another, passed by the learned single judge of this court in Writ Petition No. 166 of 2003. The question which was raised in the writ petition was "whether PVC pipes used in pumping sets can be held as accessories of the pumps, if so, whether they are exempted from payment of commercial tax ?".

2. The commercial tax authorities had taken a view in the orders impugned before the writ court that PVC pipes are not accessories of the pump sets, and as such, no exemption can be extended to such item. Aggrieved, the aforesaid writ petition was filed.

3. The learned single judge, after considering the law laid down in the case of Gaurav Agro Plast Vs. Assistant Commissioner of Commercial Tax, , which was upheld later on by a Division Bench Gaurav Agro Plast Vs. Assistant Commissioner of Commercial Tax, , dismissed the writ petition.

4. We have considered the submissions made by the learned counsel for the parties.

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5. In the case of Gaurav Agro Plast Vs. Assistant Commissioner of Commercial Tax, , it was held that PVC pipe used in the pumping set cannot be held to be a spare part, but an essential part of the set. This view has been upheld by the Division Bench of this court by dismissing the LPA and thereafter this point has again been considered and the view taken in Gaurav Agro Plast has been affirmed in the case of Kothari Sales v. Commissioner of Commercial Tax, M.P. [2008] 12 STJ 750 (MP). Thus once a finding is recorded that PVC pipe is an essential part of the pumping set, it cannot be said to be an accessory of pumping set. In the circumstances, we find no ground to take a different view than the view, which has been taken by the learned single judge on the basis of the judgment passed by this court in the case of Gaurav Agro Plast Vs. Assistant Commissioner of Commercial Tax, upheld by the Division Bench and also in Kothari Saks v. Commissioner of Commercial Tax, M.P. [2008] 12 STJ 750 (MP). As a result, the writ appeal fails and is hereby dismissed.

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