(2016) 02 SC CK 0187

In the Supreme Court Of India

Case No : Civil Appeal No. 4434 Of 2009 With Civil Appeal No. 8055 f 2009

Commercial Tax Officer, Siliguri APPELLANT

Vs

M/s Sovavita Tea Seed Garden RESPONDENT

Date of Decision : 04-02-2016

Acts Referred:

Citation : (2016) 93 UPTC 330

Hon'ble Judges : Shiva Kirti Singh and R.K. Agarwal, JJ.

Bench : Division Bench

Advocate : Mr. Devjyoti Basu, Advocate, Mr. Parijat Sinha, AOR, for the Appellants; None, for the Respondents

Final Decision : Dismissed

Judgement

1. Mr. Devjyoti Basu, learned counsel appearing for the appellants in both the appeals has argued at length to assail the impugned orders dated 15th October, 2007 passed by the High Court at Calcutta in WPTT Nos. 616 and 615 of 2007.

2. The High Court has affirmed the order passed by the Tribunal under the West Bengal Sales Tax Act, 1994 (for short "the 1994 Act") and agreed with the finding that the "Camellia Flower Seed" comes within Entry 37 of Schedule I to the 1994 Act and is, thus, exempt from the sales tax leviable under the 1994 Act.

3. Nobody has appeared on behalf of the respondents, but with the help of learned counsel for the appellants, we have gone through the impugned orders as well as the relevant materials. Learned counsel for the appellants submits that there are two varieties of Camellia plants, while one is used only for growing flowers and is known as "Camellia Japonica", the other variety botanically known as "Camellia Sinensis" is used to grow as bushes for plucking out shoots or leaves for manufacture of tea and the latter variety though capable of flowering is generally not used to obtain flowers.

4. The High Court has considered the aforesaid aspect in detail and also noted the relevant Entry 37 of Schedule I to the 1994 Act, which reads as follows:

"Flower Seeds, that is to say, seed for growing flower"

5. We are unable to agree with the submission that the use of the ultimate product "flower" as the main product has any relevance with the way flower seeds have been defined in the 1994 Act for the purpose of exemption. The Clause needs to be interpreted literally so as not to have any kind of restrictive meaning and adverse effect on the assessee. Even the subsequent amendment of Schedule with effect from 1st April, 2000 supports the view taken by the High Court and, hence, we find no good reasons to interfere with the impugned orders.

6. The appeals are, therefore, dismissed. No costs.