(2001) 04 SC CK 0071

In the Supreme Court Of India

Case No : Special Leave to Appeal (Civil) No.13318/2000

Commercial Taxes Officer APPELLANT

Vs

Derby Textiles Ltd. RESPONDENT

Date of Decision : 20-04-2001

Acts Referred:
Rajasthan Sales Tax Act, 1954 — Section 2(m), 12

Citation : (2002) 126 STC 545

Hon'ble Judges : Ruma Pal, J;B. N. Kirpal, J

Bench : Division Bench

Advocate : Sushil Kumar Jain and A.P. Dhamija, for the Appellant; Sujit K. Singh and S.B. Upadhyay, for the Respondent

Final Decision : Allowed

Judgement

1. Special leave granted.

2. We have heard the learned counsel for the parties.

3. Notice in this case had been issued u/s 12 of the Rajasthan Sales Tax Act, 1954 seeking to reassess the tax in respect of the accounting year January 1, 1988 to December 31, 1988. The notice was issued on March 15, 1995. After the reassessment 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 reopening had expired on March 31, 1994. Hence, the reassessment made was quashed.

4. 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, January 1, 1988 to December 31, 1988. The "previous year" has been defined in

Section 2(m) which reads as under :

" ''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 up to 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 up to which his accounts have so been made up ;"

5. 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 reassessment issued on March 15, 1995 was within the period of limitation.

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

