(1997) 03 PAT CK 0006

In the Patna High Court

Case No : Taxation Cases No''s. 26 and 27 of 1987

Gauri Shankar Narial Bhandar APPELLANT

Vs

The State of Bihar RESPONDENT

Date of Decision : 03-03-1997

Acts Referred:
Central Sales Tax Act, 1956 — Section 14

Citation : (1997) 2 PLJR 709

Hon'ble Judges : D.P. Wadhwa, C.J;S.J. Mukhopadhaya, J

Bench : Division Bench

Advocate : Ramesh Kr. Agrawal, for the Appellant; O.P. Agrawal, for the Respondent

Final Decision : Allowed

Judgement

D.R Wadhwa, C.J. and S.J. Mukhopadhaya, J.—At the instance of the Petitioner the Commercial Taxes Tribunal, Bihar, Patna, referred this Court the following questions of law for its opinion:

Whether in the facts and circumstances of the case the Tribunal was correct in holding that-

(i) Watery coconut should be considered to fall within the category of Kirana goods, and

(ii) Whether it should be taxed at the rate applicable to unspecified items.

2. At the outset Mr. Ramesh Kumar Agrawal, learned Counsel for the Petitioner said that in view of the judgment of the Supreme Court in the case of Ganpat Lal Lakhotia Vs. State of Rajasthan and Others, it is to be answered in negative, that is, in favour of the Petitioner and against the revenge.

3. In the case of Ganpat Lal Lakhotia the question which the Supreme Court considered was almost having same effect and, that is, the watery coconut levied to sales tax at the rate of 7 percent under the Rajasthan Sales Tax Act, 1954.

The Court said that watery coconut will fall under the category of coconut as goods u/s 14 of the Central Sales Tax Act and be, thus, liable to sales tax at the rate of 4 percent.

4. Accordingly, following the decision of the Supreme Court, we will answer the question in negative, that is, in favour of the Petitioner and against the Revenue.

5. There will be no order as to costs.

