(2012) 03 UK CK 0061

In the Uttarakhand High Court

Case No : Commercial Tax Revision No. 3 of 2012

Himalaya Stone Industries APPELLANT

Vs

State of Uttarakhand and Others RESPONDENT

Date of Decision : 30-03-2012

Acts Referred:
Uttarakhand Value Added Tax Act, 2005 — Item 94 of Schedule 11(B)

Citation : (2013) 62 VST 233

Hon'ble Judges : Barin Ghosh, C.J;Umesh Chandra Dhyani, J

Bench : Division Bench

Advocate : Bharat Ji Agrawal, assisted by S.K. Posti, for the Appellant; K.P. Upadhyay, Additional Chief Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

Barin Ghosh, C.J.—The short question in the instant case is, what is the effect of the amendment effected on January 21, 2006, to item 94 of Schedule 11(B) of the Uttarakhand Value Added Tax Act, 2005. Prior to the amendment, the said item was as under: River sand and grit excluding (a) boulders and (b) grit and sand manufactured by stone crushers.

The said entry was altered on January 21, 2006, to the effect as follows:

River sand, grit and boulders.

2. On a query made to the Commissioner u/s 57 of the said Act, the Commissioner held that ''"grit" mentioned in entry 94 of the said Schedule with effect from January 21, 2006 shall also include "grit" manufactured by stone crushers. On an appeal preferred by the State before the Tribunal, the Tribunal has stated that the word "grit" finding place in item 94 of the said Schedule, must be a product of the river sand, not a product of the stone crushers. Challenging the said finding, the present revision application has been filed.

3. Prior to January 21, 2006, the Legislature was aware that grit is available from

more than one sources and, one of them was from stone crushers, accordingly, grit was brought within the said item, but grit manufactured by stone crushers was excluded. Having had made the law with such knowledge, while the Legislature altered the law, it brought grit within the item and, accordingly, brought all types of grits within the item and, did not exclude any grit available from any sources. Applying the principles of ejusdem generic in the instant case and, treating the source river, for the word "river" has been used before the word "sand", is not permissible. Consciously, sand manufactured by stone crushers has not been dealt with while effecting the amendment. In the circumstances, we are of the view that the Tribunal erred in holding that the girt referred to in item 94 of the Schedule even after January 21, 2006, relates only to river grit. We, accordingly, allow the revision application striking down the order of the Tribunal and, uphold the order of the Commissioner.