(2007) 09 SIK CK 0002

In the Sikkim High Court

Martin Lottery Agencies Ltd. APPELLANT

Vs

Union of India (UOI) RESPONDENT

Date of Decision : 18-09-2007

Acts Referred:

Citation : (2007) 8 STR 561 : (2008) 14 STT 242 : (2009) 24 VST 24

Hon'ble Judges : A.N. Ray, C.J

Bench : Single Bench

Final Decision : Allowed

Judgement

A.N. Ray, C.J.—Affidavits have not been called for although the learned Advocate General asked for time. Here the learned Advocate General is appearing as Assistant Solicitor General. Time to file affidavit was refused by me since the issue is one of pure law. This order is to be read as a sequel to the order already passed by this Court on 13-8-2007 Martin Lottery Agencies Ltd. Vs. Union of India (UOI), . The basic facts are set out there. The arguments this time centered out whether lottery tickets are goods or not. The statutory provisions which are material in this regard are extracted in my earlier order. On the authority of the Constitution Bench of the Supreme Court which delivered its judgment in the Sunrise Associates Vs. Govt. of NCT of Delhi and Others, lottery tickets have to be held to be actionable claims. As such those would not be goods within the meaning of the definition clause in the Sale of Goods Act. If the lottery tickets are not goods, the writ petitioners cannot said to be rendering any service in relation to the promotion of their client''s goods, or marketing of their client''s goods, or sale of their client''s goods.

2. The writ petition succeeds on this simple point. The impugned notice dated 30-4-2007 (Annexure P-3 of the writ petition) is accordingly quashed. There will be no order as to costs.

