(1995) 02 SC CK 0012

In the Supreme Court Of India

Case No : Civil Appeal No. 691 Of 1977

Ramdas Laxmidas APPELLANT

Vs

Commissioner of Sales Tax RESPONDENT

Date of Decision : 01-02-1995

Acts Referred:

Bombay sales tax act, 1946 — Section 23(1)Bombay sales tax rules, 1946—Rule 26(2)

Citation : (1995) 6 JT 600 : (1996) 1 PLJR 24 : (1995) 5 SCALE 251 : (1995) 6 SCC 127 : (1995) 3 SCR 588 Supp : (1995) WritLR 769

Hon'ble Judges : K. S. Paripoornan, J;J. S. Verma, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. THIS appeal by special leave is against the judgment of the Bombay High court answering the question of law referred to it under Section 23(1 of the Bombay Sales Tax Act, 1946 in favour of the Department and against the dealer. For claiming certain benefits, the dealer was required to produce declarations as required under Rule 26(2 of the Bombay Sales Tax Rules, 1946. The dealer failed to produce those declarations and counterfoils. The dealer claimed that it was under no obligation to preserve those declarations beyond the period prescribed under Section 12-A(3 of the Act read with Rule 41-A of the rules framed therein. The High court while rejecting the contention of the dealer observed as under:

"IT is for an assessee to satisfy the assessing authority that he is entitled to the deduction or exemption claimed by him, and if the statute requires certain documents to be produced in support of such claim and if an assessee voluntarily destroys them, it is hardly open to an assessee to complain if the claim is disallowed.

"

2. WE find no infirmity in the view taken by the High court. When the clear requirement of the statute is that for claiming the deduction, the dealer is

required to produce certain documents in support of the claim. Acceptance of the dealer''s contention that it is not bound to produce the same at the time of assessment beyond a certain period of time, would result in negating the statutory provision which requires the deduction to be given only-on production of the documents in support of that claim. This appeal must therefore fail.

3. CONSEQUENTLY, the appeal is dismissed.

4. NO costs.

