(2001) 01 RAJ CK 0089

In the Rajasthan High Court

Case No : Civil Special Appeal No. 1149 of 2000

Vishal Trading Company	APPELLANT
Vs	
State of Rajasthan and another	RESPONDENT

Date of Decision : 19-01-2001

Acts Referred:

Citation : (2001) 1 WLN 735

Hon'ble Judges : Rajesh Balia, J;P.C. Tatia, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Rajesh Balia, J.—Heard learned Counsel for the parties.

2. Learned Counsel for the parties state that this appeal arising out of the Writ Petition Nos. 1142/2000 and 4072/2000 raises identical issues in respect of regular assessment made for the assessment period 1997-98 in the hands of the petitioner- appellant in respect of goods which emanated from M/s. Hind Syntex Ltd. allegedly sister concern of M/s. Vishal Trading Co.

3. The petition has been dismissed by the learned Single Judge on the ground of availability of adequate and efficacious remedy under the Rajasthan Sales Tax Act. It is not the case of the appellant that he had not been given number of opportunities for hearing nor it is a case where validity of any provision of the Act, Rules or notification issue thereunder has been challenged. It is a case of alleging the order to be erroneous.

4. In these circumstances, we are of the opinion that discretion exercised by the learned Single Judge in not entertaining the writ petition in view of availability of alternative remedy at the threshold does not call for interference and the parties be left to prosecute the remedy under the Act.

5. However, keeping in view the facts and circumstances of the case as noticed by us in the case of M/s. Hind Syntex Ltd. v. State of Rajasthan and Anr. in

Special Appeal No. 1148/2000, we deem it appropriate to direct that since the assessee has been prosecuting this litigation bonafide along with other matters, the appeal, if filed within three weeks from now may be entertained by the Appellate Authority on payment of requisite amount required to be deposited without objections to the period of limitation and the remaining amount of demand shall remain stayed until the decision of the appeal.

6. With these directions, this appeal as well as writ petition stand dismissed.

7. There shall be no order as to costs.