

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1434 OF 2003

M/s Orissa State Financial Corporation .. Appellant(s)

Versus

Commnr.of Commercial Taxes & Ors. .. Respondent(s)

O R D E R

Despite valiant attempt on the part of learned counsel for the appellant to convince us that in view of some observations in Dena Bank Vs. Bhikhabhai Prabhudas Parekh & Co. & Ors., 2000(5) SCC 694, the issue raised in the present appeal requires consideration, in our judgment the issue is no more *res integra*. In State Bank of Bikaner & Jaipur vs. National Iron & Steel Rolling Corp. & Ors., (1995) 2 SCC 19, explaining the scope of Section 11-AAAA of the Rajasthan Sales Tax Act, 1954 (for short, "the Act") which is *pari materia* to Section 13-B of the Orissa Sales Tax Act, 1947, a three-Judge Bench of this Court has held that the statutory charge created under Section 11-AAAA of the said Act, the sales tax dues shall have precedence over the mortgage created in favour of the Bank. To the same effect is another decision of this Court in State of M.P. & Anr. vs. State Bank of Indore & Ors., (2002) 10 SCC 441, wherein it was held that a charge

created by Section 33C of the M.P. General Sales-Tax Act,

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1958 in favour of the State in respect of sales-tax dues shall prevail over the charge created by the dealer in favour of the Bank in respect of the loan.

In view of the said pronouncements, we do not find any substance in this appeal. The appeal, therefore, stands dismissed, leaving the parties to bear their own costs.

.....J.
[D.K. JAIN]

.....J.
[T.S. THAKUR]

NEW DELHI,
DECEMBER 03, 2009.

JUDGMENT