

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6692 OF 2008
(Arising out of S.L.P. (C) No.2984 of 2008)

The Director of Entry Tax & Ors.

....Appellants

Versus

Sunrise Timber Company

....Respondent

J U D G M E N T

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the order passed by a Division Bench of the Calcutta High Court summarily dismissing the writ petition filed by the petitioner under Article 226 of the Constitution of India, 1950 (in short the

‘Constitution’). Challenge was to the order dated 24.7.1997 passed by the West Bengal Taxation Tribunal (in short ‘the Tribunal’) in R.N-204 of 1996.

3. Respondent had filed application under Section 8 of the West Bengal Taxation Tribunal Act, 1987 (in short ‘the Act’) in the nature of an application under Article 226 of the Constitution. The question raised was certain amount collected from the respondents in view of assessment or otherwise as entry tax should be refunded along with interest, and the documents seized on 26.5.1992 should be released and compensation is to be paid by the officials for loss of reputation.

4. Stand of the appellant was that the petitioner before the Tribunal in collusion with others imported consignments of timber being specified goods under the schedule appended to Taxes on Entry of Goods into the Calcutta Metropolitan Area Act, 1972 (in short ‘TAGMA Act’) into the Calcutta Metropolitan Area from places outside the State for sale, use or consumption therein without payment of necessary Entry Tax and also forged documents thereby attracting action in terms of Section 24(1)(a) and 24(1)(b) of TAGMA Act besides criminal offences of forgery, cheating. It

was pointed out that payment of Entry Tax was evaded by using and/or producing all such forged documents.

5. The Tribunal accepted the stand of the respondent that he was being harassed and the entire exercise of seizure and the collection of tax was without legal sanction.

6. Appellants preferred Writ Petition before the High Court. As noted above, the High Court disposed of the writ petition holding as follows:

“Having heard the learned Advocate for the Petitioners and after going through the materials on record, we find that the learned Tribunal has dealt with the matter extensively and there is no illegality or irregularity in respect of the order so passed by the learned Tribunal.

Hence, the application is dismissed.”

7. Learned counsel for the appellants submitted that the approach of the High Court is clearly erroneous. Several questions of importance were involved. The Tribunal did not examine the issues in the right perspective and came to abrupt conclusions contrary to the evidence on record.

8. There is no appearance on behalf of the respondents in spite of service of notice.

9. We find that the High Court has not dealt with the various stands taken by the appellants. It has come to an abrupt conclusion that the Tribunal has dealt with the matter extensively. The issues raised by the appellants were not without substance. It is another thing whether the same would have been accepted. The manner in which the High Court has summarily dismissed the writ petition cannot be countenanced.

10. Accordingly, we set aside the impugned order of the High Court and remit the matter to it for fresh consideration in accordance with law. We make it clear that we have not expressed any opinion on the merits of the case.

11. The appeal is disposed of accordingly.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(Dr. MUKUNDAKAM SHARMA)

New Delhi
November 18, 2008