

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).10620-10621 OF 2017
Arising out of SLP (C) No(s).2623-2624/2014

BIRLASOFT (INDIA) LTD.

Appellant (s)

Versus

STATE OF UTTAR PRADESH

Respondent(s)

O R D E R

Leave granted.

Heard the learned counsel for the parties.

We find that the order questioned in W.P. No. 36543 of 2013 was the order dated 18.5.2013 declining the exemption on the following grounds:

"I carefully perused the entire facts and evidences available in the file. Thereafter I reach to this find that this statement made by the petitioner company in the representation dated 26.3.2009 in question is not based on facts that due to procedure lapse the signature of concerned Distt. Magistrate/G.M.D.I.C. as witness could not be obtained on the agreement to lease dated 19.1.2007 executed by them in confirmation and certification of admissible of exemption from stamp duty. In the above context, this argument submitted by the department is based on the provisions contained in the relevant policy 2004 and government Order dated 30.12.2005, 24.3.2008 and 12.4.2010 issued in this regard and it is proved that the exemption from stamp duty has been allowed only on the sale and lease deed related to transfer of land only in the cases of Information Technology Unit and transfer of premises/building is not covered by the said exemption. As such, no justification for issue of certificate required for allowing exemption from stamp duty in the case in question was found. Resultantly, the representation dated 26.3.2009 submitted by the petitioner company is rejected."

The order by which the stamp duty and penalty had been imposed was not in question in the writ application. The High Court has not examined the legality of the order dated 18.5.2013 either while deciding the writ application or while deciding review petition.

Consequently, we set aside the impugned orders passed by the High Court and request the High Court to decide the writ application afresh. The appeals are allowed.

.....J
(ARUN MISHRA)

.....J
(AMITAVA ROY)

NEW DELHI;
AUGUST 18, 2017

ITEM NO.2

COURT NO.11

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).2623-2624/2014

(Arising out of impugned final judgment and order dated 10-07-2013 in CMWP No. 36543/2013 05-12-2013 in RA No. 235582/2013 05-12-2013 in CMWP No. 36543/2013 passed by the High Court Of Judicature At Allahabad)

BIRLASOFT (INDIA) LTD.

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH

Respondent(s)

(IA No.73442/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

Date : 18-08-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Parag P. Tripathi, Sr. Adv.
Mr. Atul Shankar Mathur, Adv.
Ms. Nimita Kaul, Adv.
Ms. Subhashini, Adv.
Mr. Kunal Bahri, Adv.
M/s. Khaitan & Co., AOR

For Respondent(s) Mr. Vinay Garg, Adv.
Ms. Vimla Sinha, Adv.
Mr. Sudeep Kumar, Adv.
Mr. Ravi Prakash Mehrotra, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeals are allowed in terms of the signed order.

(B. PARVATHI)
COURT MASTER (SH)

(TAPAN KUMAR CHAKRABORTY)
BRANCH OFFICER

(Signed order is placed on the file)