

Prabhat Zarda Factory India

Tax Cases No.2 of 2010

FORUM

Patna High Court

ORDER DATE

18 Jul 2019

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

What Mr. Pathy, canvasses is that once the division bench judgment of the Tribunal whereby the claim of the petitioner had been negated, was overruled by the larger bench, the petitioner became entitled to his reliefs. We would not express ourselves on this submission because before us, the petitioner seeks a direction to the Tribunal to refer the substantial question of law which is raised in the case. Now besides the fact that Section 35H providing for such reference stands deleted, the other prayer also cannot be entertained because the very judgment rendered by the Tribunal in the case of the petitioner has been overruled by a larger bench. In other words, the issue before us is prima facie rendered academic. The submission of Mr. Pathy is that the issue is not actually rendered infructuous rather has been answered in favour of the petitioner by the larger bench. In view of the larger bench decision, Mr. Pathy prays for disposal of the matter to enable the petitioner to take recourse to such remedy that may be available to him in law for espousing the grievance in the light of the position settled by the larger bench. We do not think that Mr. Tripathi learned Senior Counsel for the Department may have any objection because we are not expressing our opinion on the plea of reference so made rather in case the petitioner intends to avail of the remedy that may be available to him in view of the larger bench decision, he shall be at liberty to do so. With the observations above, we dispose of this Tax Case. Bibhash (Partha Sarthy, J)

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 341-344

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