

Magadh Stock Exchange Association

Civil Writ Jurisdiction Case No.12043 of 2011

FORUM

Patna High Court

ORDER DATE

02 Sep 2020

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

Resultantly, irrespective of the category of liability, such deductions were regulated by law under the aegis of Section 43B, keeping in mind the peculiar exigencies of fiscal affairs and underlying concerns of public Revenue.” 14. Even on an earlier occasion, the Court affirmed the view of the Revenue that furnishing of a Bank Guarantee is not the same as making payment stipulated under Section 43B of the Act [Commissioner of Income Tax, Udaipur, Rajasthan vs. Mcdowell and Company Limited, (2009) 10 SCC 755]. 15. Hence on both counts, we see no reason to accept the contentions of the petitioner- (a) Constitutional validity of the Act already stands affirmed by the Hon’ble Apex Court in Exide Industries Limited (supra). (b) On the second submission, undisputedly, petitioner had not deposited the amount deducted as STT with the authorities, and it is not his case that the same stood paid back/returned to the person from whom it stood deducted. It is the admitted case of the petitioner that since the petitioner was adopting the mercantile system of accounting; he was not supposed to take any action. Even on this count, given law discussed above, more so Exide Industries Limited (supra). (supra) and Mcdowell (supra), the orders cannot be said to be perverse and illegal warranting interference by this Court. 16. Given binding precedents of Hon’ble the Apex Court, we need not refer to the binding effect of the decisions rendered by different High Courts cited by the learned counsel for the petitioner. 17. The writ petition stands dismissed. 18. No order as to costs. 19. Interlocutory Application, if any, shall stand disposed of.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 469-477

READ ORDER

AI DISCLOSURE

AI-assisted preparation: this document was generated with AI using the identified source and may contain extraction, interpretation or omission errors. It has not been independently approved by a practising professional. Verify every material statement against the complete original order.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment, or a substitute for the full order. Applicability depends on the facts, assessment year, statutory version and jurisdiction. Subsequent appeals, stays, reversals and legislative changes have not been checked unless expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.