

Magadh Stock Exchange Association

Civil Writ Jurisdiction Case No.12043 of 2011

FORUM

Patna High Court

ORDER DATE

11 Oct 2023

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

1 herein. It is necessary to extract Para 15 of the order dated 02.09.2020, which reads as under:- "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." Later portion of the order in Para 15, i.e., (b) insofar as challenge to the revision order dated 20.01.2011, the same has been decided on factual aspects read with judicial pronouncements. We find no infirmity or error apparent on the face of the record. Therefore, we dismiss the civil review petition, since there is no error insofar as finding given by this Court in the order dated 02.09.2020. Further scope of review petition is limited as held by the Apex Court in the following decisions. (a) S. Murali Sundaram Vs. Jothibai Kannan and Ors. reported in (2023) SCC Online SC 185. (b) Arun Dev Upadhyaya Vs. Integrated Sales Services Ltd. and Anr., 2023 Livelaw (SC) 506. (Para 14 to 17). 4. Accordingly, the present Civil Review petition stands allowed in part. Jyoti/abhishek (Arun Kumar Jha, J)

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 857-859

READ ORDER

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