

**SUPREME COURT OF INDIA**

Orissa State Financial Corporation

Vs.

Commnr. of Commercial Taxes

C.A.No.1434 of 2003

(D.K. Jain and T.S. Thakur JJ.)

03.12.2009

**ORDER**

1. Despite valiant attempt on the part of learned counsel for the appellant to convince us that in view of *Parekh & Co. & Ors.*<sup>1</sup>, the issue raised in the present appeal requires consideration, in our judgment the issue is no more res integra. In *State Bank of Bikaner & Jaipur vs. National Iron & Steel Rolling Corp. & Ors.*<sup>2</sup>, explaining the scope of Section 11-AAAA of the Rajasthan Sales Tax Act, 1954 (for short, "the Act") which is pari materia to Section 13-B of the Orissa Sales Tax Act, 1947, a three-Judge Bench of this Court has held that the statutory charge created under Section 11- AAAA of the said Act, the sales tax dues shall have precedence over the mortgage created in favour of the Bank.

2. To the same effect is another decision of this Court in *State of M.P. & Anr. vs. State Bank of Indore & Ors.*<sup>3</sup>, wherein it was held that a charge created by Section 33C of the M.P. General Sales-Tax Act, 1958 in favour of the State in respect of sales-tax dues shall prevail over the charge created by the dealer in favour of the Bank in respect of the loan.

3. In view of the said pronouncements, we do not find any substance in this appeal. The appeal, therefore, stands dismissed, leaving the parties to bear their own costs.

<sup>1</sup>2000(5) SCC 694

<sup>2</sup>(1995) 2 SCC 19

<sup>3</sup>(2002) 10 SCC 441