IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 291/2011

STATE OF U.P. & ORS **APPELLANT(S)**

VERSUS

GRAND SLAM FITNESS(P) LTD. **RESPONDENT(S)**

WITH

CIVIL APPEAL NO. 293/2011

ORDER

1. Heard Mr. Bhakti Vardhan Singh and Ms. Charanya Lakshmikumaran, learned counsel for the parties.

2. The respondents in Civil Misc. Writ Petition No. 534/2009 and Civil Misc. Writ Petition No. 361/2009 are the appellants.

3. The Writ Petitioners are private limited companies incorporated under the provisions of the Companies Act, 1956. They are primarily engaged in the sale of physical exercise and fitness equipment, such as the Cross Elliptical Trainer, Manual Treadmill, Motorized Treadmill, Rowers Exercise Bikes, Strength Equipment, etc. The petitioners are registered dealers under the U.P. Value Added Tax Act, 2008. The companies have filed a Writ of

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Date: 2024.11.18 17:07:02 IST
Reason:

Certiorari against the order dated 18.09.2008 passed by the second appellant and the order dated 26.11.2008 passed by the third appellant in the Civil Appeals. The subject-matter relates to the period from April, 2008 to July, 2008.

4. Through the order dated 31.10.2008, the Revenue called upon the dealers to pay tax @ 12.5% under the Act on the sports equipment dealt with by the dealers. Here, we use the expression equipment inasmuch as the controversy between the Revenue and the dealers centres around the nature, name, and code entry to which it belongs, and whether the equipment dealt with by the dealers falls within the exemption granted vide notification dated 09.04.2008.

5. To appreciate the controversy, the following few lines are adverted to:

5.1 The dealers claim that the equipment falls under Commodity Code Entry No. 60 under Section 70 of the Act under which the goods have been classified. The exemption notification dated 09.04.2008 reads as under:

> ***"51. Wooden Toys, Lac + Shellac, including Paseva Mulamma, Button, Leo and Kiri, Sports Goods excluding Apparels, and sports Footwear, stop clock.***
> ***A true typed copy of the Notification No. 1021 dated 9/4 2008 is annexed herewith and marked as ANNEXURE P-2 to this SLP."***

6. Therefore, since the equipment dealt with by the dealer squarely falls within the definition of 'Sports Goods', first, the levy and imposition of tax on exempted goods is impermissible, and second, levying tax @ 12.5%, which treats it as unclassified goods, is illegal. Hence, prayed for setting aside the demand.

7. The case of Revenue is that the notification dated 09.04.2008 employs broad expressions, and from the perspective of the revenue, the subsequent notification issued would make it clear that, through the notification dated 09.04.2008, the revenue did not treat the equipment dealt with by the dealer as sports goods. Therefore, for the subsequent periods, the levy is tenable.

8. The above controversy has been considered by the High Court in the impugned judgment. The High Court first referred to Section 70 of the Act and the commodity code assigned by the revenue. It is not in dispute that Entry No. 60 under the commodity codes deals with "sports Goods, Games and Toys". Therefore, the High Court is of the view that there is no good or valid reason to exclude the equipment dealt with by the dealer from the meaning of sports goods. Consequently, the High Court has set aside

the impugned notice.

9. The learned counsel appearing for the State argues that the High Court ought to have given meaning to the expression 'sports goods' in relation to the notification dated 09.04.2008. Under such an understanding, it cannot be said that the equipment dealt with by the dealer can be treated as sports goods. Therefore, it is argued that the assessments dated 18.09.2008 and 26.11.2008 were validly issued and that the High Court ought not to have interfered with them.

10. Advocate Charanya Lakshmikumaran, appearing for the dealer, contends that the commodity entry is general but includes the equipment dealt with by the dealer. The reason assigned by the revenue for imposing tax @ 12.5% is completely illegal and unsustainable. Once the power of the revenue under Section 70 of the Act is exercised and the commodity code is prepared, denying the benefit of the exemption issued through notification dated 09.04.2008 is illegal. The reasoning of the High Court is brief but tenable, and she prays for dismissal of the Civil Appeal.

11. We have taken note of the submissions and perused the entries.

13. Let us first begin with Entry No. 60 (supra),

which includes sports goods, games and toys. Let us juxtapose Entry No. 51 in Schedule-I, amended through the notification dated 09.04.2008. The conclusion is that the exemption clearly deals with sports goods. We have to juxtapose the exemption in the notification dated 09.04.2008 with Commodity Code No. 60, which deals with sports goods, games and toys. A simple juxtaposition of both the entries would make it clear that the equipment being dealt with by the dealers can be classified as sports goods. The impugned order is correct and has applied the correct provision of law and the exemption entry.

14. We see no reason to interfere with the impugned order(s).

15. The Civil Appeals are, accordingly, dismissed.

16. Pending application(s), if any, shall stand disposed of.

……...J.
[S.V.N. BHATTI]

……...J.
[SHREE CHANDRASHEKHAR]

NEW DELHI;
OCTOBER 29, 2026.

ITEM NO.106 COURT NO.14 SECTION III-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 291/2011

STATE OF U.P.. & ORS. Appellant(s)

VERSUS

GRAND SLAM FITNESS(P) LTD. Respondent(s)

WITH
C.A. No. 293/2011 (III-A)

Date : 29-10-2026 This appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE S.V.N. BHATTI
HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

For Appellant(s) Mr. Bhakti Vardhan Singh- 2454, AOR

For Respondent(s) Mr. Pragyan Pradip Sharma, Sr. Adv.
Mr. P. V. Yogeswaran, AOR
Mr. Piyuesh Tiwari, Adv.
Ms. Ananya Mahajan, Adv.

Mr. V Lakshmikumaran, Adv.
Ms. Neha Choudhary, Adv.
Ms. Charanya Lakshmikumaran, AOR
Ms. Medha Sinha, Adv.
Ms. Nitum Jain, Adv.
Mr. Swastik Mishra, Adv.
Mr. Yashovardhan Singh, Adv.
Mr. Adithya Nair, Adv.
Mr. L Badri Narayanan, Adv.
Ms. Ananya Gupta, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. The Civil Appeals are allowed in terms of the signed order which is placed on the file.

2. Pending application(s), if any, shall stand disposed of.

(LOKESH ARORA)
SENIOR PERSONAL ASSISTANT

(AJEET SINGH TARIYAL)
COURT MASTER (NSH)