(2014) 02 RAJ CK 0012

In the Rajasthan High Court

Case No : . Sales Tax Revision No. 213 of 2010

Assistant Commercial Tax Officer — APPELLANT

Vs

Rohitash Kumar — RESPONDENT

Date of Decision : 07-02-2014

Acts Referred:

Citation : (2014) 74 VST 495

Hon'ble Judges : Bela M. Trivedi, J

Bench : Single Bench

Advocate : Tanvi Sahai for R.B. Mathur, Advocate for the Appellant

Judgement

Bela M. Trivedi, J.—The present revision petition has been filed by the petitioner-Department under section 86 of the Rajasthan Sales Tax Act, 1994 (hereinafter referred to as "the said Act") challenging the order dated July 27, 2007 passed by the Rajasthan Tax Board, Ajmer (hereinafter referred to as "the Board") in Appeal No. 580/05/Alwar, whereby the Board has dismissed the appeal filed by the petitioner-appellant arising out of the order dated November 20, 2004 passed by the Deputy Commissioner (Appeals)-I, Commercial Tax, Jaipur. The short facts giving rise to the present revision petition are that on October 9, 2003, the vehicle bearing No. RJ-02-G-4213 was stopped and checked. The said vehicle was found loaded with plastic balls. The incharge of the goods produced certain documents and on the inspection of the same, it was found that none of the documents was got checked at the respective check-post. The assessing authority, therefore, served a notice upon the respondent-assessee under section 78(10A) of the said Act, which was replied to by the assessee. However, the reply having been not found satisfactory the assessing authority imposed the penalty under the provisions contained in section 78(10A) of the said Act vide order dated October 16, 2003 on the ground of the respondent-assessee having violated the provisions of section 78(2)(a) of the said Act. The said order of penalty was assailed by the respondent before the appellate authority by filing the appeal. The appellate authority allowed the same by quashing and setting aside the order of assessing authority as per the order dated November 20, 2004. Being aggrieved by the said order passed by the appellate authority, the petitioner had preferred the appeal before the Board, which was dismissed by the Board vide the impugned order dated July 27, 2007.

2. It is submitted by Ms. Tanvi Sahai for the petitioner that the documents were not found to be checked at the respective check-post and, therefore, the penalty was imposed by the assessing authority under section 78(10A) of the said Act. The court does not find any substance in the said submission. It is not disputed that the incharge of the goods had produced all the documents pertaining to the goods and, therefore, it could not be said that there was any intention on the part of the respondent-assessee for evasion of the sales tax. The issue involved is also covered by the decision of this court in case of Tajinder Pal Vs. State of Rajasthan and Others, . There being concurrent findings of facts recorded by the appellate authority as well as by the Tax Board, this court is not inclined to interfere with the same. There being no question of law involved in the present revision petition, the same deserves to be dismissed and is accordingly dismissed.

