(2013) 08 RAJ CK 0005

In the Rajasthan High Court

Case No : Civil Sales Tax Revision No. 42 of 2006

Assistant Commercial Taxes Officer — APPELLANT

Vs

Sarita Water Tank System — RESPONDENT

Date of Decision : 23-08-2013

Acts Referred:

Citation : (2014) 44 GST 554

Hon'ble Judges : Pratap Krishna Lohra, J

Bench : Single Bench

Judgement

Pratap Krishna Lohra, J.—The petitioner has preferred this revision petition u/s 86 of the Rajasthan Sales Tax Act, 1994 (for brevity, hereinafter referred to as ''the Act of 1994''), against the impugned order passed by the learned tax board, Ajmer. Succinctly slated, the facts of the case are that the Assistant Commercial Taxes Officer, Ward II, Circle-B, Bhilwara (for short, Assessing Authority''), vide its assessment order dated 1st of July 2002 assessed the tax, penalty and interest for the Assessment Year 2002-03 vis-?-vis the respondent assessee to the tune of Rs. 32,400/- only.

2. Being aggrieved from the assessment order, the assessee preferred appeal before the learned Deputy Commissioner (Appeals), Commercial Taxes, Ajmer, and the appellate authority after hearing the rival submissions, vide its order dated 10th of December 2010, allowed the appeal by upsetting the assessment order passed by the assessing authority. While interpreting the recitals contained in the circular issued by the State Government, "Mineral water and water sold in sealed Bottles or Containers", the appellate authority has found that the plastic jar containing 20 litres water has not been sealed by the assessee and it is simply sold after putting a lid on the jar. Considering this aspect of the matter, the appellate authority has concluded that the material contained in the bottle is not taxable @ 12% in terms of the circular of the Government. The learned appellate authority has also held in clear and unequivocal terms that the assessing authority has not made any endeavour to thoroughly survey the place

of business of the assessee and furthermore no necessary enquiry in this behalf was conducted by the assessing authority. With these observations, the learned appellate authority allowed the appeal and annulled the assessment order passed by the assessing authority.

3. Feeling disgruntled from the order of the learned appellate authority, the petitioner Revenue has preferred an appeal to learned Tax Board and the said effort has also proved to be abortive. The learned Tax Board has fully concurred with the findings and conclusions recorded by the appellate authority.

4. I have heard the learned counsel for the petitioner Revenue and perused the impugned orders.

5. The learned appellate authority as well as the learned Tax Board has recorded a concurrent finding of fact based on proper appreciation of materials on record while construing the circular issued by the State Government. Therefore, in my considered opinion, there is no infirmity, much less legal infirmity, in the impugned order passed by the learned Tax Board. In this view of the matter, I am not inclined to interfere with the impugned order passed by the learned Tax Board. The net result of the above discussion is that there is no merit in the revision petition and the same is accordingly dismissed.

