(2013) 05 RAJ CK 0044

In the Rajasthan High Court

Case No : Sales Tax Revision Petition No. 149 of 2011

Assistant Commercial Taxes Officer, Flying Squad — APPELLANT

Vs

Gaurav Enterprises and Another — RESPONDENT

Date of Decision : 24-05-2013

Acts Referred:

Rajasthan Sales Tax Act, 1994 — Section 78(5)

Citation : (2013) 66 VST 559

Hon'ble Judges : Jainendra Kumar Ranka, J

Bench : Single Bench

Advocate : R.B. Mathur, for the Appellant;

Judgement

Jainendra Kumar Ranka, J.—The petitioner has challenged the order of deletion of penalty passed u/s 78(5) of the Rajasthan Sales Tax Act, 1994, amounting to Rs. 54,530 passed by the Rajasthan Tax Board, Ajmer, (in short, "the Board") vide order dated January 18, 2008 in Appeal No. 3702 of 2005. The learned counsel for the petitioner submits that the Tax Board, Ajmer, has decided the appeal in a summary manner with reference to the provision that the issue involved in the present matter is prior to March 22, 2002, and is covered by the order of the Full Bench of Tax Board in the case of Bajrang Timbers, and that the order passed by the Tax Board is unjustified in the light of the subsequent judgment passed by the honourable apex court in the case of Assistant Commercial Taxes Officer Vs. Bajaj Electricals Ltd., therefore, in so far as this fact is concerned, it be decided in favour of the petitioner-Department. But he fairly concedes that there is finding of fact by both the lower authorities, i.e., Tax Board and the DC (A) that the declaration form No. ST-18A which was found was totally filled in. It is also apparent from the assessment order and the order passed by the DC (A) and Tax Board, that the bills, builty have not been held to be bogus and forged one and rather admitted and not adversely commented, which is a finding of fact by both the appellate authorities, namely, Tax Board and DC (A).

2. Consequently, in the light of the judgment of the honourable apex court in the case of State of Rajasthan and Another Vs. M/s D.P. Metals, wherein it has been held that when the declaration form and other documents were found to be in order and bill vouchers have been held to be genuine therefore, no case is made out for deviating from such findings of facts. Even otherwise, I do not find any illegality or error or perversity in the orders impugned and concurrent finding and, as such, the revision petition is liable to be dismissed. No question of law arises. Accordingly, the sales tax revision petition as well as the stay application are dismissed.