(2009) 07 RAJ CK 0070

In the Rajasthan High Court

Asstt. Commissioner APPELLANT

Vs

Mohit Trading Co. RESPONDENT

Date of Decision : 13-07-2009

Acts Referred:

Citation : (2009) 12 Vat Reporter 92

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Gopal Krishan Vyas, J.—Heard learned Counsel for the petitioner.

2. Admittedly, according to the facts of this case, the order dated 7.7.2003 passed by Commercial Taxes Officer, Hanumangarh was challenged by the assessee by way of filing an appeal before the Dy. Commissioner (Appeals), Commercial Taxes, Bikaner. The said authority passed an order in appeal filed by the assessee on 21.9.07 whereby the case was remitted to the AA. The remand order dated 21.9.07 was further challenged by the Department before the learned Tax Board. However, before adjudication of the appeal by the Tax Board filed by the Department, the AA finally decided the matter vide order dated 30.11.2007 in pursuance of the remand order passed by Dy. Commissioner (Appeals) on 21.9.2007. Meaning thereby the order passed by Dy. Commissioner (appeals) was complied with before adjudication of the appeal by Tax Board, therefore, when the appeal came up for hearing before the learned Tax Board, the Tax Board observed that the appeal has become infructuous because the order dated 21.9.2007 is not in existence because a fresh order has been passed on 30.11.2007 by the Assistant Commissioner, Commercial Taxes. While observing the said fact, the learned Tax Board rendered the said appeal infructuous vide impugned order dated 10.11.2008.

3. In my opinion, no error has been committed by learned Tax Board while rendering the appeal filed by the Department as infructuous in view of the fact

that the Assistant Commissioner, Commercial Taxes has decided the matter finally on remand. Therefore, no interference is required in the impugned order. However, it is made clear that the final order dated 30.11.2007 passed in pursuance of remand order dated 21.9.2007 was not under challenge in the appeal before the learned Tax Board.

4. Accordingly, this revision petition is dismissed.

