(2009) 04 RAJ CK 0015

In the Rajasthan High Court

Case No : Sales Tax Revision Petition No. 135 of 2009

Commercial Tax Officer APPELLANT

Vs

Agarwal J.V. RESPONDENT

Date of Decision : 13-04-2009

Acts Referred:

Rajasthan Sales Tax Act, 1994 — Section 37(1), 37(2), 37(4), 84, 85(11)

Citation : (2011) 42 VST 188

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Gopal Krishan Vyas, J.—This sales tax revision petition u/s 86 of the Rajasthan Sale Tax Act, 1994 has been filed by the Commercial Taxes Officer, Sirohi challenging the judgment and order dated December 15, 2008 passed by the learned Tax Board, Ajmer in Appeal No. 1772/2008/ Sirohi, whereby, the Tax Board has upheld the order dated May 29, 2008 passed by the Deputy Commissioner (Appeals), whereby, the Deputy Commissioner (Appeals) allowed the appeal filed u/s 84 of the Rajasthan Sales Tax Act, 1994 and set aside the order passed by the assessing authority imposing the penalty upon the Respondent/dealer vide order dated February 19, 2008.

2. The learned Counsel for the Department vehemently argued that the order passed by the Deputy Commissioner (Appeals), so also, Tax Board is illegal and not based upon sound reasons. The main contention of learned Counsel for the Department is that the Tax Board has not appreciated the relevant provisions of law and material available on record. As per the Department, the pre-condition for availing of the benefit under C form is that the purchaser must use the goods, inter alia, for manufacturing or processing; but, this is not the case of the Respondent. More so, the Respondent is works contractor, therefore, the Tax Board has erred in relying upon the judgment of the Rajasthan State Electricity Board v. State of Rajasthan reported in (1980) 45 STC 201 (Raj) . So also, the

judgment of the apex court in State of Rajasthan Vs. Jaipur Udyog Ltd., In fact, the facts of both the cases were altogether different and the facts of the present case are entirely different.

3. I have perused the present revision petition filed by the Department u/s 86 of the Rajasthan Sales Tax Act, 1994. The scope of revision is very limited. The language of Section 86 runs as under:

86. Revision to the High Court.-(1) Any dealer aggrieved by an order passed by the Tax Board under Sub-section (11) of Section 85 or under Sub-section (1) of Section 37, may, within ninety days from the date of service of such order, apply to the High Court in the prescribed form accompanied by the prescribed fee, for revision of such order on the ground that it involves a question of law.

(2) The Commissioner may, if he feels aggrieved by any order passed by the Tax Board under Sub-section (11) of Section 85, or under Sub-section (1) of Section 37, direct, any officer or in-charge of a check-post to apply to the High Court for revision of such order on the ground that it involves a question of law; and such officer or in-charge of a check-post shall make the application to the High Court within one hundred and eighty days of the date on which the order sought to be revised is communicated in writing to the Commissioner.

(3) The application for revision under Sub-section (1) or Sub-section (2) shall state the question of law involved in the order sought to be revised, and the High Court may formulate the question of law in any form or allow any other question of law to be raised.

(4) The High Court shall after hearing the parties to the revision, decide the question of law stated to it or formulated by it, and shall thereupon pass such order as is necessary to dispose of the case.

(5) Any person feeling aggrieved by an order passed under Sub-section (4) may apply for a review of the order to the High Court and the High Court may make such order thereon as it thinks fit.

4. In my opinion, while exercising revisional jurisdiction, scope is very limited and if any question of law arises, then, it must be formulated after mentioning the grounds. In my opinion, in a very casual manner, this revision petition has been filed u/s 86 of the Act of 1994 having three paragraphs; and, in the fourth paragraph, questions of law have been formulated. It is very strange that in para 4, ten questions have been formulated. However, upon perusal of the whole of the revision petition including statement of facts, it is revealed that only ground is raised in para 4 of the statement of facts that the Tax Board has not appreciated the relevant provisions of law and material available on record in its proper light. For this assertion, no specific provision of law or material is pointed out by the Petitioner nor any ground is raised except para 4 of the statement of fact.

5. I have perused the judgments in Rajasthan State Electricity Board v. State of

Rajasthan reported in (1980) 45 STC 201 (Raj) , so also, State of Rajasthan Vs. Jaipur Udyog Ltd., In my opinion, the learned Tax Board has rightly decided this matter while following aforesaid judgments because in this case for construction of national highway, diesel, LDO furnace oil and other material was purchased, therefore, obviously the goods was purchased for use of constructing the national highway; and, for that purpose, for processing, the said material was used.

6. In this view of the matter, no error has been committed by the learned Tax Board as well as the Deputy Commissioner (Appeals). Therefore, no question of law arises for interference.

7. This revision petition is, therefore, accordingly dismissed.