(2015) 03 RAJ CK 0173

In the Rajasthan High Court

Case No : Sales Tax (VAT) Revision Petition No. 63/2014

Commercial Tax Officer APPELLANT

Vs

Jyoti Electronics RESPONDENT

Date of Decision : 18-03-2015

Acts Referred:

Citation : (2016) 89 VST 210

Hon'ble Judges : Jainendra Kumar Ranka, J.

Bench : Single Bench

Advocate : Nitin Jain, Counsel, for the Appellant; Achinta Kaushik, Counsel, Advocates for the Respondent

Judgement

Jainendra Kumar Ranka, J.—Instant petition by the petitioner-Revenue is directed against order passed by the Rajasthan Tax Board, Ajmer (for short, "Tax Board") dated 08/10/2013 dismissing the Appeal No. 740/2012 filed by the Revenue. It relates to Assessment Year 2008-09.

2. The brief facts, which can be noticed, are that the respondent-assessee is a dealer of electronic items, was granted trade discount by the manufacturer/ purchaser of the goods and during the Assessment Year 2008-09 got discount to the extent of Rs. 9,60,183/- and claimed Input Credit based on the invoice value. However, the Assessing Officer (for short, "AO") was not satisfied with the claim of the respondent-assessee as Input Tax Credit having been taken on the higher side than the ultimate sale value to the consumers and accordingly, levied differential tax.

3. The matter was challenged by the respondent-assessee before the Deputy Commissioner (Appeals) [for short, "DC(A)"], who, after analyzing the material on record, allowed the appeal by holding that the Input Tax Credit has rightly been claimed by the respondent-assessee.

4. The petitioner-Revenue carried the matter in appeal before the Tax Board, who, after analyzing the material on record and considering the judgments

decided by the Tax Board, came to the same conclusion as was reached by the DC(A). Hence this revision petition by the petitioner-Revenue.

5. Mr. Nitin Jain, ld. counsel for the petitioner-Revenue contended that the assessee wrongly claimed Input Tax Credit and sold the goods to the consumers even lower than bill/invoice. value of purchases and therefore, the Input Tax Credit could not have been claimed at the same figure than what had been shown in the sale value and thus the Tax Board was unjustified in coming to the said conclusion and contended that question of law arise out of the order of the Tax Board and needs consideration.

6. Per-contra, ld. counsel for the respondent-assessee contended that the Input Tax Credit was rightly claimed and it was for the assessee to manage its affairs as it was aware that it would be receiving discount and accordingly sold the goods according to its convenience and choice to the consumers and it is not debarred under the sales tax law in selling the goods on the price lower than the invoice (purchase value) and contended that it is basically a finding of fact and no question of law can be said to have arisen out of the order of the Tax Board.

7. Considered the arguments advanced by ld. counsel for the parties and perused the impugned order.

8. In my view, the Tax Board, after appreciation of evidence and factual finding, has come to the conclusion that the assessee sold goods to the ultimate consumers on discounted amount and it was none of the business of the Revenue to interfere in the affairs of the assessee. Even if the assessee sells goods at a loss at least revenue should not have grudge or concern. It is also not debarred under the sales tax law and/or VAT law to sell the goods below the invoice value. Once a whole seller has issued an invoice, then Input Tax Credit is allowable as per VAT invoice alone and the same requires to be allowed to the assessee.

9. This Court, in the case of CTO V. M/s Narendra Kumar Govind Prasad in SB Sales Tax Revision Petition No. 65/2014 vide order dt.19/01/2015, has held that the sales tax law does not debar if the assessee chooses to sell the goods keeping in view the prospective discount or rebate which may be received by the assessee and in passing the same to the consumer on account of the business expediency or otherwise.

10. It is also noticed that the Tax Board has basically come to a finding based on the appreciation of evidence on record and I do not find any infirmity or perversity in the order impugned so as to call for interference of this Court. No question of law emerges out of the order impugned.

11. Consequently, the revision petition, being devoid of merit, stands dismissed with no order as to costs.