(2012) 09 RAJ CK 0144

In the Rajasthan High Court

Case No : Civil Sales Tax Revision No''s. 217 and 211-216 of 2010

Commercial Taxes Officer — APPELLANT

Vs

Birla Cement Pvt. Ltd. — RESPONDENT

Date of Decision : 12-09-2012

Acts Referred:
Rajasthan Sales Tax Act, 1994 — Section 84

Citation : (2013) 57 VST 293

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Advocate : Vineet Kumar Mathur, for the Appellant;

Final Decision : Dismissed

Judgement

Gopal Krishan Vyas, J.—In all these sales tax revision petitions, order dated February 22, 2010 passed by the learned Tax Board, Ajmer and order dated March 31, 2008 passed by the Deputy Commissioner (Appeals), Commercial Taxes, Jodhpur in appeal filed u/s 84 of the Rajasthan Sales Tax Act, 1994 against order dated September 11, 2000 passed by the assessing authority are under challenge. The learned counsel for the petitioners vehemently argued that the respondent-assessee was granted benefit of 100 per cent exemption from the tax liability under the Rajasthan Sales Tax Incentive Scheme, 1987 and Central Sales Tax Incentive Scheme by the DLSC vide its order dated July 20, 1996 with effect from December 17, 1993 for a period of seven years. The assessing authority found that in view of the notification dated December 10,1996, the respondent-assessee is entitled to exemption at the rate of 75 per cent from the tax liability being SSI unit, therefore, the assessing authority assessed tax and interest thereof and further imposed penalty u/s 61 of the Rajasthan Sales Tax Act, 1994 for the delay in filing quarterly returns vide order dated September 11, 2000.

2. The respondent-assessee preferred appeal u/s 84 of the Act before the Deputy Commissioner (Appeals), Commercial Taxes, Jodhpur, against order dated

September 11, 2000. Learned appellate authority disposed of the appeals filed by the respondent-assessee and remanded the matter again to the assessing authority to provide an opportunity of hearing to the respondent-assessee on the point of penalty u/s 61 of the Act. The Revenue challenged the order passed by the appellate authority before the Rajasthan Tax Board, Ajmer. Learned Tax Board disposed of the appeals filed by the Revenue while holding that the assessing authority could not sit over the order of DLSC and reduce the exemption from the exemption granted to the respondent-assessee. The Tax Board while following the judgment rendered by the honourable Supreme Court in Motilal Padampat Sugar Mills Co. Ltd. Vs. State of Uttar Pradesh and Others, so also, judgments of this court in Assam Roller Flour Mills v. Commercial Taxes Officer reported in [1999] 116 STC 585 (Raj) : 3 VAT Reporter 165, held that the assessing authority has no jurisdiction to sit over the order of DLSC and reduce the exemption from the tax liability granted to the respondent-assessee.

3. In my opinion, the concurrent finding given by both the authorities below does not require any interference. Learned Tax Board, Ajmer, has followed various judgments of this court as well as judgment of the honourable Supreme Court for holding that the assessing authority has exceeded its jurisdiction and it cannot be permitted to sit over the order of the DLSC. In my opinion, there is no error in the order impugned, therefore, no substantial question of law emerges for consideration in these revision petitions. Consequently, all the above revision petitions are hereby dismissed.