

(1987) 03 RAJ CK 0045

In the Rajasthan High Court

Case No : Sales Tax Revision No. 144 of 1987

Commercial Taxes Officer

APPELLANT

Vs

Jeewan Ram Ram Dayal

RESPONDENT

Date of Decision : 23-03-1987

Acts Referred:

Rajasthan Sales Tax Act, 1954 — Section 15

Citation : (1987) 67 STC 144

Hon'ble Judges : J.S. Verma, C.J

Bench : Single Bench

Advocate : P.K. Bhansali, for the Appellant;

Final Decision : Dismissed

Judgement

J.S. Verma, C.J.—This is a revision u/s 15 of the Rajasthan Sales Tax Act, 1954, as amended by the Amendment Act of 1984, against the judgment dated 28th September, 1982, of a Division Bench of the Board of Revenue, dismissing the special appeal against the judgment dated 22nd September, 1978, of a Single Bench in a revision against the order dated 28th April, 1971 of the Deputy Commissioner (Appeals), Commercial Taxes, Udaipur. The material facts are stated hereafter.

2. The assessee claimed deduction of certain sales from a taxable turnover, made to registered dealers, against S. T. 17 forms. The assessing authority disallowed the deduction claimed in < respect of sale transactions amounting to Rs. 72,424.51 relating to last point goods, sold to registered dealers, against S. T. 17 forms on the basis of a notification dated 23rd March, 1963. The assessee preferred an appeal to the Deputy Commissioner (Appeals) which was allowed. It was held that the assessee had established the fact that the purchasing registered dealers, to whom the last point goods were sold against S. T. 17 forms, had already deposited tax on such sales on account of which no further tax could be charged from the assessee in respect to the same sale transactions. The only point urged on behalf of the department was that notwithstanding

payment of the tax by the purchasing registered dealer of these last point goods, the selling dealer was also liable for payment of tax. This contention was rejected. Accordingly, the sales tax charged from the assessee, amounting to Rs. 1,448.50, on sales amounting to Rs. 72,424.51 was set aside. The department filed a revision against that order. So the Board of Revenue which was first heard by a Single Bench of the Board which rejected the revision upholding the reason as well as the conclusion of the appellate authority. The special appeal before a Division Bench of the Board has also been rejected for the same reason. Hence this further revision by the department.

3. Learned counsel for the department urged that no tax had been paid by the purchasing registered dealer to whom the assessee had sold these goods against S. T. 17 forms and, therefore, the assessee was liable to pay tax in accordance with the aforesaid notification dated 23rd March, 1963.

4. I am unable to accept this contention since there is no foundation for this argument in the present case. As earlier stated, there was no controversy raised by the department, either before the appellate authority or before the Tribunal, about payment of tax by the purchasing registered dealer and the only argument advanced was that notwithstanding such a payment by the purchasing registered dealer, the liability for payment of tax, according to the notification, by the assessee survives in addition. In other words, payment of tax for the same sale transaction by the purchasing registered dealer was never in controversy before the appellate authority or the Tribunal and the only question was of the additional liability of the assessee, after tax had been paid by the purchasing registered dealer, for the same sale transactions. Obviously, the argument advanced now by the learned counsel for the petitioner is, contrary to it and for that reason, it cannot be accepted.

5. There is no infirmity in the orders of the Tribunal and, therefore, there is no ground to interfere in this revision. It is dismissed.

6. Since no one has appeared to oppose, no costs.