(2014) 08 RAJ CK 0016

In the Rajasthan High Court

Case No : . Sales Tax Revision No. 16 of 2010

Commercial Taxes Officer APPELLANT

Vs

Krishna Trading Company RESPONDENT

Date of Decision : 28-08-2014

Acts Referred:

Citation : (2015) 78 VST 514

Hon'ble Judges : Alok Sharma, J

Bench : Single Bench

Judgement

Alok Sharma, J.—Heard. Perused the impugned order dated June 4, 2009 passed by the Rajasthan Tax Board, Ajmer (hereinafter "the Tax Board").

2. The question of law in this revision petition is as to whether for levy of exemption fee/composition fee in lieu of turnover tax under the extent Rajasthan Sales Tax Act, 1994 (hereinafter "the Act of 1994"), exempted goods notified by the State of Rajasthan under the Notification No. F.4(II) FD Group-4/95-86 dated March 27, 1995, i.e., cigarette and products of tobacco could be reckoned for computation of turnover tax. The Tax Board has held that as cigarettes and products of tobacco were exempted goods under the notification dated March 27, 1995 in terms of section 13A(2)(i) of the Act of 1994, sale/purchase in respect thereof had to be excluded while computing the taxable turnover of the assessee and per force the composition or exemption fee in lieu thereof. The Tax Board consequently found that a sum of Rs. 33,60,806 relating to the sale/purchase of cigarette could not have been reckoned in the taxable turnover of the assessee. Consequently, from the turnover of Rs. 10,26,63,948.73 arrived at with the inclusion of sale/purchase of cigarettes, sale of the exempted goods to an extent of Rs. 33,60,806 had to be excluded. Thereupon the taxable turnover of the assessee would be less than Rs. 10 crores, i.e., Rs. 10,26,63,948.73 - Rs. 33,60,806 = 9,93,03,142.73. In terms of the Notification No. F.4(4)FD/Tax/ Div./99 Part 57 dated June 28, 2003 the composition fee/exemption fee for turnover between - Rs. 5 crores and Rs. 10 crores was Rs. 36,000. The Tax

Board held that levy of a higher composition fee by the assessing officer on the basis of treating the assessee''s turnover as Rs. 10,26,63,948.73 was illegal and liable to be set aside. The Tax Board therefore upheld the order dated November 27, 2006 passed by the Deputy Commissioner (Appeals) holding that the assessee was liable to pay composition fee/exemption fee of Rs. 39,600 only which had been deposited by it and that the additional composition fee of Rs. 14,400 and further interest of Rs. 4,752 thereon aggregating to Rs. 19,224 as assessed by the assessing officer was liable to be quashed and set aside.

3. In my considered view section 13A(2)(i) makes it amply evident that the taxable turnover shall not include the sale and purchase of exempted goods. Admittedly consequent to additional duty of excise under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 vide notification dated March 27, 1995 by the State Government had declared cigarettes and products of tobacco exempted from purchase and sales tax under the Act of 1994. In these circumstances the sale of the respondent-assessee to the extent of Rs. 33,60,806 from its business in cigarette and products of tobacco could not have been reckoned for determination of taxable turnover and levy of exemption/ composition fee in lieu thereof. The findings of the Deputy Commissioner (Appeals) as upheld by the Tax Board, are valid and legal. I find nothing perverse therein. No question of law as sought to be agitated in this revision petition is made out. In fact the revision petition has been mechanically filed as is evident from the generality of grounds agitated in support of the petition. The reasoning of the Deputy Commissioner (Appeals) as also the Tax Board has not even been critiqued in this revision petition which is based on vague assertion of facts and overlook the statutory provision, notification of the State Government and the earlier judgments of this court and the Tax Board on the manner of computation of taxable turnover for levy of tax or exemption fee in lieu thereof. I find no force in the revision petition. Dismissed.

