(1985) 10 RAJ CK 0022

In the Rajasthan High Court

Case No : Sales Tax Reference No. 32 of 1980

Commercial Taxes Officer APPELLANT

Vs

Lila Brothers RESPONDENT

Date of Decision : 16-10-1985

Acts Referred:
Rajasthan Sales Tax Act, 1954 — Entry 8(b)

Citation : (1985) RLW 651 : (1987) 64 STC 372 : (1985) 2 WLN 344

Hon'ble Judges : Shyam Sunder Byas, J;S.K. Mal Lodha, J

Bench : Division Bench

Advocate : K.C. Bhandari, for the Appellant; Rajesh Balia, for the Respondent

Final Decision : Dismissed

Judgement

S.K. Mal Lodha, J.

1.This Court by its order dated September 20, 1977, passed in D.B. Civil Sales Tax Reference No. 236 of 1976 (Commercial Taxes Officer, Sriganganagar v. Lila Brothers), directed the Board of Revenue for Rajasthan, Ajmer ("the Board" herein) to refer the following two questions for the opinion of this Court:

1. Whether under the facts and circumstances of the case, the Board of Revenue was justified in holding that discs, harrows, cultivators, disc-harrows and offset harrows are agricultural implements and are covered under entry 8(b) of the Schedule of the Rajasthan Sales Tax Act, 1954 and exempt from tax ?

2. Whether under the facts and circumstances of the case, the Board of Revenue was justified in holding that the nut-bolts, hose pipes, hose clips, lift chains and tiller shovels are tractor parts and not motor parts and liable to be taxed at the rate of 2 per cent only ?

2. It appears from the order dated September 20, 1977, that previously reference was called on a question similar to question No. 1. This Court directed the Board of Revenue to make the reference. Mr. K.C. Bhandari, learned counsel

for the CTO, informs us that the reference that was called in Assistant Commercial Taxes Officer v. Bharat Krishi Yantralaya, Bharatpur (D.B. Sales Tax Reference No. 16 of 1979) was disposed of by the Jaipur Bench on February 20, 1981. The learned Additional Government Advocate stated that the State Government had taken a decision to abide by the order of the Board of Revenue. It was requested that reference need not be answered. In this reference question No. 1 is the same which was referred in Assistant Commercial Taxes Officer''s case (D.B. Sales Tax Reference No. 16 of 1979 decided on 20th February, 1981-Rajasthan High Court, Jaipur Bench). This reference was pending on May 1, 1985, when the Rajasthan Sales Tax (Amendment) Act, 1984 (Act No. 20 of 1984) (Amendment Act) came into force and so by virtue of Section 13(11) of the Amendment Act this reference has to be heard as a revision u/s 15 of the Rajasthan Sales Tax Act, 1954 (Act No. 29 of 1954) (for short "the Act"), as substituted by the Amendment Act.

3. We have heard it as a revision. So far as question No. 1 is concerned suffice it to state that the Board was directed to refer question No. 1 as similar question was ordered to be referred in Assistant Commercial Taxes Officer''s case (D.B. Sales Tax Reference No. 16 of 1979 decided on 20th February, 1981-Rajasthan High Court, Jaipur Bench) and as that reference was not answered at the instance of the learned Additional Government Advocate, appearing for the State of Rajasthan, no useful purpose will be served in deciding this question of law that the discs, harrows, cultivators, disc-harrows and offset harrows are agricultural implements and are covered under entry 8(b) of the Schedule of the Rajasthan Sales Tax Act and was exempted from tax as the State Government decided to abide by the decision which was rendered by the Board in the similar circumstances.

4. Now we take up question No. 2. The question of law that arises is whether the Board was right and justified in holding that the nut-bolts, hose pipes, hose clips, lift chains and tiller shovels are tractor parts and not motor parts and therefore, liable to be taxed at the rate of 2 per cent as provided in .Table 17 at entry No. 17. Entry No. 17 of Table 17 is as follows :

Table No. 17

17. Tractors and spare parts thereof...

5. It was not disputed by the learned counsel appearing for the C.T.O. that the nut-bolts, hose pipes, hose clips, lift chains and tiller shovels are tractor parts and not motor parts but his contention is that they do not fall within the expression "spare parts thereof" used in entry No. 17 of Table 17, as such they are chargeable to tax at the rate of 7 per cent as they fall under entry No. 19 of Table 17. This has necessitated to consider entry No. 19 of Table 17 which is as under:

Table 17

19. All goods for which no rate has been prescribed elsewhere.

6. Entry No. 19 of Table 17 is a general entry as if the goods mentioned above do not fall in any one of the entries then sales tax chargeable will be 7 per cent under entry No. 19 of Table 17. The spare parts of the tractor have been specifically mentioned in entry No. 17 of Table 17. In this connection various arguments have been raised by Mr. K.C. Bhandari, learned counsel for the C.T.O., that the expression "spare parts thereof" envisaged by entry No. 17 of Table 17 are those spare parts which are supplied by the dealer to the purchaser of the tractor at the time of purchase of the tractor without charging any additional price for the same and this expression does not include the spare parts of the tractor which the purchaser of the tractor may purchase in addition to the tractor and includes the spare parts that are supplied with the tractor by paying the price of the tractor only and not the spare parts that are sold by charging additional price thereof. The interpretation put by the learned counsel for the C.T.O. is not correct, for entry No. 17 of Table 17 regarding spare parts thereof also refers to the parts of the tractor which are purchased by the purchaser from the dealer by paying additional price either at the time of purchase of the tractor or thereafter. It is not restricted or limited to the spare parts that are supplied with the sale of the tractor and for which no separate price is charged.

7. In this view of the matter the rate of sales tax chargeable on nut-bolts, hose pipes, hose clips, lift chains and tiller shovels, etc., will be 2 per cent and not 7 per cent under entry No. 19 of Table 17.

8. The view taken by the Board that the aforesaid parts of the tractor are chargeable to tax at the rate of 2 per cent only is correct. The revision (refe-ence treated as revision) is, therefore, dismissed. There will be no order as to costs.

